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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2021-0510; Project Identifier 2019-CE-058-AD; Amendment 39-21629; AD 2021-14-02]

RIN 2120-AA64

#### Airworthiness Directives; Aircraft Industries a.s. Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Aircraft Industries a.s. Models L-420, L 410 UVP-E20, and L 410 UVP-E20 CARGO airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as cracking of the retaining bolt on the nose landing gear (NLG) control. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective August 2, 2021.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of August 2, 2021.

The FAA must receive comments on this AD by August 26, 2021.

**ADDRESSES:** You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Aircraft Industries, a.s., 686 04 Kunovice, Czech Republic; phone: +420 572 817 664; fax: +420 572 816 112; email: [pps@let.cz](mailto:pps@let.cz); website: <http://www.let.cz/en/bulletin>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329-4148. It is also available at <https://www.regulations.gov> by searching for locating Docket No. FAA-2021-0510.

#### Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0510; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the MCAI, any comments received, and other information. The street address for Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Doug Rudolph, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329-4059; fax: (816) 329-4090; email: [doug.rudolph@faa.gov](mailto:doug.rudolph@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2021-0510 and Project Identifier 2019-CE-058-AD" at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to <https://www.regulations.gov>, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

#### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Doug Rudolph, Aerospace Engineer, FAA, General Aviation & Rotorcraft Section, International Validation Branch, 901 Locust, Room 301, Kansas City, MO 64106. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

#### Background

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2019-0308, dated December 18, 2019 (referred to after this as "the MCAI"), to address the unsafe condition on Aircraft Industries a.s. Models L-410 UVP-Turbolet, L-410 UVP-E, L 410 UVP-E9, L 410 UVP-LW, L 410 UVP-E-LW, L 410 UVP-E20, L 410 UVP-E20 CARGO and L-420 airplanes. The MCAI states:

Malfunction of the steering on the nose landing gear was reported by L-410 operators. Investigation determined that the malfunction was due to loss of the vertical pin further to a cracking of the retaining bolt on the nose landing gear control.

This condition, if not detected and corrected, could lead to reduced control of the aeroplane during taxiing, take-off and landing.

To address this potential unsafe condition, Aircraft Industries developed an improved pin and issued the applicable SB [service bulletin] to provide inspection and modification instructions.

For the reason described above, this [EASA] AD requires a one-time inspection of the the [sic] nose landing gear leg to determine if an affected part is installed, and replacement of affected parts with improved pins.

You may examine the MCAI in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0510.

### Related Service Information Under 1 CFR Part 51

The FAA reviewed LET Aircraft Industries Mandatory Bulletin SB No. L-420/021a, Revision 1, dated October 29, 2019, as applicable to Model L-420 airplanes; and LET Aircraft Industries Mandatory Bulletin SB No. L410UVP-E/144a, Revision 1, dated October 29, 2019, as applicable to Models L 410 UVP-E20 and L 410 UVP-E20 CARGO airplanes. For the airplane models specified on each document, the service information contains procedures for inspecting the NLG steering lever assembly vertical pin and replacing it if part number (P/N) L3 223 016 with a retaining bolt is installed. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the ADDRESSES.

### FAA's Determination

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, it has notified the FAA of the unsafe condition described in the MCAI and service information referenced above. The FAA is issuing this AD because it evaluated all information provided by the State of Design Authority and determined the unsafe condition described previously is likely to exist or develop on other products of the same type design.

### AD Requirements

This AD requires accomplishing the actions specified in the service information already described. This AD also prohibits installing a vertical pin P/N L3 223 016 in the NLG steering lever assembly on any airplane.

### Differences Between This AD and the MCAI

The MCAI applies to Models L-410 UVP-Turbolet, L-410 UVP-E, L 410 UVP-E9, L 410 UVP-LW, and L 410 UVP-E-LW. This AD does not because those models do not have an FAA type certificate.

### Justification for Immediate Adoption and Determination of the Effective Date

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for "good cause," finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because there are no airplanes currently on the U.S. registry and thus, it is unlikely that the FAA will receive any adverse comments or useful information about this AD from U.S. operators. Accordingly, notice and opportunity for prior public comment are unnecessary pursuant to 5 U.S.C. 553(b)(3)(B). In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days for the same reasons the FAA found good cause to forego notice and comment.

### Costs of Compliance

There are currently no affected airplanes on the U.S. registry. In the event an affected product becomes a U.S.-registered product, the following is an estimate of the costs to comply with this AD.

The FAA estimates that it would take .5 work-hour per airplane to comply with the inspection required by this AD. The average labor rate is \$85 per work-hour. Based on these figures, the FAA estimates the cost of this AD to be \$42.50 per airplane.

In addition, the FAA estimates that replacing the vertical pin, if necessary, would take 1 work-hour and require parts costing \$2,000 for a cost of \$2,085 per airplane.

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue

rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Flexibility Act

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without notice and comment, RFA analysis is not required.

### Regulatory Findings

The FAA determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.



**§ 39.13 [Amended]**

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**2021–14–02 Aircraft Industries a.s.:**  
Amendment 39–21629; Docket No. FAA–2021–0510; Project Identifier 2019–CE–058–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective August 2, 2021.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Aircraft Industries a.s. Models L–420, L 410 UVP–E20, and L 410 UVP–E20 CARGO airplanes, all serial numbers, certificated in any category.

**(d) Subject**

Joint Aircraft System Component (JASC) Code 3250, Landing Gear Steering System.

**(e) Unsafe Condition**

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI identifies the unsafe condition as cracking of the retaining bolt on the nose landing gear (NLG) control. The FAA is issuing this AD to prevent loss of the NLG vertical pin, which, if not addressed, could result in reduced airplane control during taxing, takeoff, and landing.

**(f) Compliance**

Comply with this AD within the compliance times specified, unless already done.

**(g) Inspection and Replacement**

(1) Within 30 days after the effective date of this AD, inspect the NLG to determine if vertical pin part number (P/N) L3 223 016 with retaining bolt is installed on the NLG steering lever assembly. If vertical pin P/N L3 223 016 is installed, before further flight, replace the vertical pin with vertical pin P/N L3 223 316 by following sections B. and C. of the Instruction for Implementation in LET Aircraft Industries Mandatory Bulletin SB No. L–420/021a, Revision 1, dated October 29, 2019; or LET Aircraft Industries Mandatory Bulletin SB No. L410UVP–E/144a, Revision 1, dated October 29, 2019, as applicable to your airplane model.

(2) As of the effective date of this AD, do not install a vertical pin P/N L3 223 016 in the NLG steering lever assembly on any airplane.

**(h) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as

appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in Related Information, paragraph (i)(1) of this AD or email: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

**(i) Related Information**

(1) For more information about this AD, contact Doug Rudolph, Aviation Safety Engineer, General Aviation & Rotorcraft Section, International Validation Branch, FAA, 901 Locust, Room 301, Kansas City, MO 64106; phone: (816) 329–4059; fax: (816) 329–4090; email: [doug.rudolph@faa.gov](mailto:doug.rudolph@faa.gov).

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2020–0308, dated December 18, 2019, for more information. You may examine the EASA AD in the AD docket at <https://www.regulations.gov> by searching for and locating it in Docket No. FAA–2021–0510.

**(j) Material Incorporated by Reference**

(1) The Director of the Federal Register approved the incorporation by reference of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) LET Aircraft Industries Mandatory Bulletin SB No. L–420/021a, Revision 1, dated October 29, 2019.

(ii) LET Aircraft Industries Mandatory Bulletin SB No. L410UVP–E/144a, Revision 1, dated October 29, 2019.

(3) For service information identified in this AD, contact Aircraft Industries, a.s., 686 04 Kunovice, Czech Republic; phone: +420 572 817 664; fax: +420 572 816 112; email: [pps@let.cz](mailto:pps@let.cz); website: <http://www.let.cz/en/bulletin>.

(4) You may view this referenced service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available at <https://www.regulations.gov> by searching for locating Docket No. FAA–2021–0510.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on June 21, 2021.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–13637 Filed 7–9–21; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 39**

[Docket No. FAA–2021–0297; Project Identifier 2019–SW–062–AD; Amendment 39–21614; AD 2021–13–09]

RIN 2120–AA64

**Airworthiness Directives; Airbus Helicopters**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for Airbus Helicopters Model SA330J helicopters, all serial numbers. This AD was prompted by reports of the failure of the lower bearing cage of the main rotor hub (MRH) flapping hinges and of the presence of metallic particles at the bottom of a drag hinge. This AD requires repetitive inspections of the MRH chip detectors, or for helicopters not equipped with chip detectors, repetitive inspections of the oil for contamination by metallic particles, and corrective actions if necessary, as specified in a European Union Aviation Safety Agency (EASA) AD, which is incorporated by reference. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective August 16, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 16, 2021.

**ADDRESSES:** For material incorporated by reference (IBR) in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet: [www.easa.europa.eu](http://www.easa.europa.eu). You may find this material on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0297.

**Examining the AD Docket**

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–

0297; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Mahmood G. Shah, Aviation Safety Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; phone: 817-222-5538; email: [mahmood.g.shah@faa.gov](mailto:mahmood.g.shah@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2019-0157, dated July 3, 2019 (EASA AD 2019-0157) (also referred to as the Mandatory Continuing Airworthiness Information, or the MCAI), to correct an unsafe condition for Airbus Helicopters Model SA330J helicopters, all serial numbers.

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Airbus Helicopters Model SA330J helicopters, all serial numbers. The NPRM published in the **Federal Register** on April 13, 2021 (86 FR 19157). The NPRM was prompted by reports of the failure of the lower bearing cage of the MRH flapping hinges

and of the presence of metallic particles at the bottom of a drag hinge. The NPRM proposed to require repetitive inspections of the MRH chip detectors, or for helicopters not equipped with chip detectors, repetitive inspections of the oil for contamination by metallic particles, and corrective actions if necessary, as specified in an EASA AD.

The FAA is issuing this AD to address failure of the lower bearing cage of the MRH flapping hinges and presence of metallic particles at the bottom of a drag hinge, which could lead to loss of flapping hinge function, resulting in MRH unbalance and loss of control of the helicopter. See the MCAI for additional background information.

**Discussion of Final Airworthiness Directive**

**Comments**

The FAA gave the public the opportunity to participate in developing this final rule. The FAA received no comments on the NPRM or on the determination of the cost to the public.

**Conclusion**

The FAA reviewed the relevant data and determined that air safety and the public interest require adopting this final rule as proposed, except for minor editorial changes. The FAA has determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM for addressing the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM.

**Related Service Information Under 1 CFR Part 51**

EASA AD 2019-0157 specifies procedures for repetitive inspections of the MRH chip detectors, or for helicopters not equipped with chip detectors, repetitive inspections of the oil for contamination by metallic particles, and corrective actions if necessary. Corrective actions include replacement of the incidence hinge bearings, replacement of the flapping bearing race and bearing or if there is no degradation reinstallation of the bearing race and bearing 180° from the marked position during removal, and replacement of the drag lower bearing race and bearing. This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Interim Action**

The FAA considers this AD interim action. The investigation to detect the root cause of the reported failures of the lower bearing cage of the MRH flapping hinges and presence of metallic particles at the bottom of the drag hinge is on-going.

**Costs of Compliance**

The FAA estimates that this AD affects 4 helicopters of U.S. registry. The FAA estimates the following costs to comply with this AD:

**ESTIMATED COSTS FOR REQUIRED ACTIONS**

Labor cost	Parts cost	Cost per product	Cost on U.S. operators
4 work-hours × \$85 per hour = \$340 .....	\$0	\$340	\$1,360

The FAA estimates the following costs to do any necessary on-condition replacements that would be required

based on the results of any required actions. The FAA has no way of determining the number of helicopters

that might need these on-condition replacements:

**ESTIMATED COSTS OF ON-CONDITION ACTIONS**

Labor cost	Parts cost	Cost per product
24 work-hours × \$85 per hour = \$2,040 .....	\$53,025.29	\$55,065.29

**Authority for This Rulemaking**

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more

detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA

with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an

unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

- (1) Is not a "significant regulatory action" under Executive Order 12866,
- (2) Will not affect intrastate aviation in Alaska, and
- (3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

#### 2021–13–09 Airbus Helicopters:

Amendment 39–21614; Docket No. FAA–2021–0297; Project Identifier 2019–SW–062–AD.

#### (a) Effective Date

This airworthiness directive (AD) is effective August 16, 2021.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to Airbus Helicopters Model SA330J helicopters, certificated in any category, all serial numbers.

#### (d) Subject

Joint Aircraft System Component (JASC) Code 6200, Main Rotor System.

#### (e) Reason

This AD was prompted by reports of the failure of the lower bearing cage of the main

rotor hub (MRH) flapping hinges and of the presence of metallic particles at the bottom of a drag hinge. The FAA is issuing this AD to address failure of the lower bearing cage of the MRH flapping hinges and presence of metallic particles at the bottom of a drag hinge, which could lead to loss of flapping hinge function, resulting in MRH unbalance and loss of control of the helicopter.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) Requirements

Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, European Union Aviation Safety Agency (EASA) AD 2019–0157, dated July 3, 2019 (EASA AD 2019–0157).

#### (h) Exceptions to EASA AD 2019–0157

- (1) Where EASA AD 2019–0157 refers to its effective date, this AD requires using the effective date of this AD.
- (2) The "Remarks" section of EASA AD 2019–0157 does not apply to this AD.
- (3) Where EASA AD 2019–0157 refers to flight hours (FH), this AD requires using hours time-in-service.
- (4) Although the service information referenced in EASA AD 2019–0157 specifies to discard certain parts, this AD requires removing those parts from service.

#### (i) Special Flight Permit

Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the helicopter can be modified (if the operator elects to do so), provided the helicopter is operated during the day under visual flight rules with no passengers are onboard.

#### (j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k) of this AD. Information may be emailed to: [9-AVS-AIR-730-AMOC@faa.gov](mailto:9-AVS-AIR-730-AMOC@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

#### (k) Related Information

For more information about this AD, contact Mahmood G. Shah, Aviation Safety Engineer, Fort Worth ACO Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; phone: 817–222–5538; email: [mahmood.g.shah@faa.gov](mailto:mahmood.g.shah@faa.gov).

#### (l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless this AD specifies otherwise.

(i) European Union Aviation Safety Agency (EASA) AD 2019–0157, dated July 3, 2019.

(ii) [Reserved]

(3) For EASA AD 2019–0157, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; phone: +49 221 8999 000; email: [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); Internet: [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>.

(4) You may view this service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call 817–222–5110. This material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0297.

(5) You may view this material that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov), or go to <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on July 2, 2021.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–14688 Filed 7–9–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA–2021–0022; Project Identifier MCAI–2020–00395–E; Amendment 39–21648; AD 2021–15–01]

**RIN 2120–AA64**

### Airworthiness Directives; Rolls-Royce Deutschland Ltd & Co KG (Type Certificate Previously Held by Rolls-Royce plc) Turbofan Engines

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Rolls-Royce Deutschland Ltd & Co KG (RRD) Trent XWB–75, Trent XWB–79, Trent XWB–79B, Trent XWB–84, and Trent XWB–97 model turbofan engines. This AD was prompted by the manufacturer revising the time limits

manual (TLM) to incorporate repairs to the low-pressure compressor (LPC) blades and introduce a new fan blade inspection. This AD requires revisions to the airworthiness limitations section (ALS) of the Rolls-Royce (RR) Trent XWB TLM and the operator's existing approved aircraft maintenance program (AMP). The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective August 16, 2021.

**ADDRESSES:** For service information identified in this final rule, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, DE24 8BJ, United Kingdom; phone: +44 (0)1332 242424; website: <https://www.rolls-royce.com/contact-us.aspx>. You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 1200 District Avenue, Burlington, MA 01803. For information on the availability of this material at the FAA, call (781) 238-7759. It is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0022.

#### Examining the AD Docket

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0022; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the mandatory continuing airworthiness information (MCAI), any comments received, and other information. The address for Docket Operations is U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7132; fax: (781) 238-7199; email: [Scott.M.Stevenson@faa.gov](mailto:Scott.M.Stevenson@faa.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all RRD Trent XWB-75, Trent XWB-79, Trent XWB-79B, Trent XWB-84, and Trent XWB-97 model turbofan engines. The NPRM published in the *Federal Register* on February 23, 2021 (86 FR 10878). The NPRM was prompted by the manufacturer revising the TLM to incorporate repairs to the

LPC blades and introduce a new fan blade inspection. In the NPRM, the FAA proposed to require revisions to the ALS of the RR Trent XWB TLM, as applicable to each engine model, and to the operator's existing approved AMP, to include new or more restrictive sections of the applicable RR Trent XWB TLM for each affected engine model. The FAA is issuing this AD to address the unsafe condition on these products.

The European Union Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2020-0066, dated March 23, 2020 (referred to after this as "the MCAI"), to address the unsafe condition on these products. The MCAI states:

The Airworthiness Limitations Section instructions for Trent XWB engines, which are approved by EASA, are defined and published in TLM TRENTXWB-K0680-TIME0-01. These instructions have been identified as mandatory for continued airworthiness. Failure to accomplish these instructions could result in an unsafe condition.

Rolls-Royce recently revised the TLM, introducing new and/or more restrictive instructions.

For the reason described above, this [EASA] AD requires accomplishment of the instructions specified in the TLM, as defined in this AD.

You may obtain further information by examining the MCAI in the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0022.

#### Discussion of Final Airworthiness Directive Comments

The FAA received comments from two commenters. The commenters were Air Line Pilots Association, International (ALPA) and Delta Air Lines, Inc. (DAL). The following presents the comments received on the NPRM and the FAA's response to each comment.

#### Request To Revise Required Actions

DAL commented that revising the AMP to include the specific requirements contained in Figure 1 to paragraph (g)(1) or Figure 2 to paragraph (g)(2) is difficult. DAL requested that the FAA revise paragraph (g) of this AD to allow incorporation of the specific language referenced in Figure 1 to paragraph (g)(1) or Figure 2 to paragraph (g)(2) into the AMP instead of only allowing incorporation of the figures into the AMP.

The FAA agrees and has revised Note 1 to paragraph (g) of this AD to clarify that operators may choose to incorporate the language referenced in

Figure 1 to paragraph (g)(1) or Figure 2 to paragraph (g)(2) directly into their existing approved AMP instead of incorporating the respective figures into the existing approved AMP.

#### Request To Include Modification Specifications of the Ultra Long Range Operation

DAL noted that paragraph (g)(1) of the NPRM includes a proposed requirement that applies to Trent XWB-84 Ultra Long Range (ULR) operation. However, the RR Trent XWB TLM does not define the specification of a ULR operation. DAL commented that ULR operation requires modification to the airplane. The Trent XWB-84 can be installed on both A350-900 standard or ULR operations without any modification to the engine. DAL added that the airplane type certification data sheet does not specify the modification standards of a ULR operation. Since the TLM does not include any specifications of ULR operation and the aircraft type certificate data sheet does not define this specific standard, DAL requested that the FAA include the modification specifications of the ULR operation in the final rule.

The FAA disagrees. Although the airplane requires modification for ULR operation, the Trent XWB-84 model turbofan engine does not require modification for ULR operation and can be installed on a standard airplane or a ULR airplane. The FAA did not change this AD.

#### Support for the AD

ALPA expressed support for the NPRM as written.

#### Conclusion

The FAA reviewed the relevant data, considered any comments received, and determined that air safety requires adopting this AD as proposed. Accordingly, the FAA is issuing this AD to address the unsafe condition on these products. Except for minor editorial changes, and any other changes described previously, this AD is adopted as proposed in the NPRM. None of the changes will increase the economic burden on any operator.

#### Related Service Information

The FAA reviewed Rolls-Royce Airworthiness Limitations (Mandatory Inspections), TRENTXWB-A-05-20-01-00A01-030A-D, Revision 013, dated September 1, 2019, of the Rolls-Royce Trent XWB TLM TRENTXWB-K0680-TIME0-01, and Rolls-Royce Airworthiness Limitations (Mandatory Inspections), TRENTXWB-B-05-20-01-00A01-030A-D, Revision 005, dated

April 1, 2020, of the Rolls-Royce Trent XWB TLM TRENTXWB-K0680-TIME0-01. These two sections of the TLM specify inspection intervals, differentiated by engine model, for critical rotating parts.

### Costs of Compliance

The FAA estimates that this AD affects 22 engines installed on airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

#### ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the ALS of the RR Trent XWB TLM and the operator's existing approved AMP.	1 work-hour × \$85 per hour = \$85 .....	\$0	\$85	\$1,870

### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Will not affect intrastate aviation in Alaska, and

(3) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

**2021-15-01 Rolls-Royce Deutschland Ltd & Co KG (Type Certificate previously held by Rolls-Royce plc):** Amendment 39-21648; Docket No. FAA-2021-0022; Project Identifier MCAI-2020-00395-E.

#### (a) Effective Date

This airworthiness directive (AD) is effective August 16, 2021.

#### (b) Affected ADs

None.

### (c) Applicability

This AD applies to Rolls-Royce Deutschland Ltd & Co KG (RRD) (Type Certificate previously held by Rolls-Royce plc) Trent XWB-75, Trent XWB-79, Trent XWB-79B, Trent XWB-84, and Trent XWB-97 model turbofan engines.

### (d) Subject

Joint Aircraft System Component (JASC) Code 7200, Engine Turbine/Turboprop.

### (e) Unsafe Condition

This AD was prompted by the manufacturer revising the time limits manual (TLM) to incorporate repairs to the low-pressure compressor (LPC) blades and introduce a new fan blade inspection. The FAA is issuing this AD to prevent the failure of critical rotating parts. The unsafe condition, if not addressed, could result in failure of one or more engines, loss of thrust control, and loss of the airplane.

### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

### (g) Required Actions

Within 120 days after the effective date of this AD, revise the Rolls-Royce (RR) Trent XWB TLM, as applicable to each engine model, and the operator's existing approved aircraft maintenance program (AMP) by incorporating the following:

(1) For Trent XWB-75, Trent XWB-79, Trent XWB-79B, and Trent XWB-84 model turbofan engines, add Figure 1 to paragraph (g)(1) of this AD to the airworthiness limitations section (ALS) of RR Trent XWB TLM TRENTXWB-K0680-TIME0-01 and to the operator's existing approved AMP.

**Figure 1 to Paragraph (g)(1)**

<b>2.4.8 LP Compressor blades CSN 72311301250</b> , refer to TRENTXWB-A-72-31-13-02A01-300A-C		
<b>Inspection interval (EFC)</b>		
<b>Part number</b>	<b>Standard Operation</b>	<b>Ultra Long Range Operation</b>
KH14304	Remove the LP Compressor blades and repair in accordance with FRSA424, refer to TRENTXWB-A-72-31-13-02A08-600A-C at every engine refurbishment where a Level 3 workscope or above is instructed on the HP System Module.	Remove the LP Compressor blades and repair in accordance with FRSA424, refer to TRENTXWB-A-72-31-13-02A08-600A-C at every engine refurbishment where a Level 3 workscope or above is instructed on the HP System Module.
KH56535	Remove the LP Compressor blades and repair in accordance with FRSA424, refer to TRENTXWB-A-72-31-13-02A08-600A-C at every engine refurbishment where a Level 3 workscope or above is instructed on the HP System Module.	Remove the LP Compressor blades and repair in accordance with FRSA424, refer to TRENTXWB-A-72-31-13-02A08-600A-C at every engine refurbishment where a Level 3 workscope or above is instructed on the HP System Module.

(2) For Trent XWB-97 model turbofan engines, add Figure 2 to paragraph (g)(2) of this AD to the ALS of RR Trent XWB TLM

TRENTXWB-K0680-TIME0-01 and to the operator's existing approved AMP.

**Figure 2 to Paragraph (g)(2)**

<b>2.2.13 LP compressor fan blade CSN 72311301250</b> , refer to DMC-TRENTXWB-B-72-31-13-02A01-300A-C	
<b>Part number</b>	<b>Interval</b>
KH74127	Examine the fan blade leading edge at every engine refurbishment.

**Note 1 to paragraph (g):** Figure 1 to paragraph (g)(1) and Figure 2 to paragraph (g)(2) contain language from the original equipment manufacturer's TLM. Operators may incorporate the language referenced in Figure 1 to paragraph (g)(1) or Figure 2 to paragraph (g)(2) directly into their AMP instead of adding the respective figures into their AMP.

**(h) Definition**

For the purpose of this AD, the operator's existing approved AMP is defined as the basis for which the operator or the owner ensures the continuing airworthiness of each operated airplane.

**(i) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, ECO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ECO Branch, send it to the attention of the person identified in Related Information. You may email your request to: *ANE-AD-AMOC@faa.gov*.

(2) Before using any approved AMOC, notify your appropriate principal inspector,

or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

**(j) Related Information**

(1) For more information about this AD, contact Scott Stevenson, Aviation Safety Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: (781) 238-7132; fax: (781) 238-7199; email: *Scott.M.Stevenson@faa.gov*.

(2) Refer to European Union Aviation Safety Agency (EASA) AD 2020-0066, dated March 23, 2020, for more information. You may examine the EASA AD in the AD docket

at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0022.

**(k) Material Incorporated by Reference**

None.

Issued on July 6, 2021.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives,  
Compliance & Airworthiness Division,  
Aircraft Certification Service.*

[FR Doc. 2021–14701 Filed 7–9–21; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF TRANSPORTATION**

**Federal Aviation Administration**

**14 CFR Part 39**

[Docket No. FAA–2021–0541; Project Identifier AD–2021–00453–A; Amendment 39–21639; AD 2021–14–12]

**RIN 2120–AA64**

**Airworthiness Directives; True Flight Holdings LLC Airplanes**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all True Flight Holdings LLC Models AA–1, AA–1A, AA–1B, AA–1C, and AA–5 airplanes. This AD was prompted by the report of an accident of an airplane exhibiting bondline corrosion and delamination of the horizontal stabilizers. This AD requires inspecting the horizontal stabilizers, including the bondlines, for cracks, buckles, corrosion, delamination, rust, and previous repair and repairing or replacing parts and applying corrosion inhibitor as necessary. The FAA is issuing this AD to address the unsafe condition on these products.

**DATES:** This AD is effective July 27, 2021.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 27, 2021.

The FAA must receive comments on this AD by August 26, 2021.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.

- *Fax:* (202) 493–2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor,

Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact True Flight Holdings LLC, 2300 Madison Highway, Valdosta, GA 31601; phone: (229) 242–6337; email: [info@trueflightaerospace.com](mailto:info@trueflightaerospace.com). You may view this service information at the FAA, Airworthiness Products Section, Operational Safety Branch, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0541.

**Examining the AD Docket**

You may examine the AD docket at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0541; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, any comments received, and other information. The street address for the Docket Operations is listed above.

**FOR FURTHER INFORMATION CONTACT:** Fred Caplan, Aviation Safety Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (404) 474–5507; fax: (404) 474–5606; email: [frederick.n.caplan@faa.gov](mailto:frederick.n.caplan@faa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background**

The FAA received a report of an accident involving a True Flight Holdings LLC Model AA–5 airplane that occurred on January 19, 2021. During flight, the outboard elevator attach bracket on the horizontal stabilizer detached causing loss of elevator control and significant damage to the airplane. An investigation identified corrosion and delamination of the airplane skin bondlines around the area of the horizontal stabilizer where the elevator attach bracket was attached. Multiple field reports have identified additional instances of corrosion and delamination of skin bondlines around the horizontal stabilizer and other primary structures.

All Models AA–1, AA–1A, AA–1B, AA–1C, and AA–5 Traveler airplanes have horizontal stabilizers that are similar in design and use the same attachment method for the elevators. The affected airplanes are constructed using a metal-to-metal bonding process. While the bond adhesive remains

structurally sound throughout the aging process, factors such as corrosion and freezing moisture may compromise the structural integrity of some of the bond joints. This can lead to delamination of the skin from the primary structure.

Field reports indicate that bondline inspections are not being adequately performed during routine inspections. The FAA has determined that a more thorough inspection is necessary to reliably identify corrosion and delamination of bondlines in these critical areas, including the horizontal stabilizer.

This condition, if not addressed, could result in reduced structural integrity with consequent loss of control of the airplane. The FAA is issuing this AD to address the unsafe condition on these products.

**FAA’s Determination**

The FAA is issuing this AD because the agency has determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

**Related Service Information Under 14 CFR Part 51**

The FAA reviewed True Flight Aerospace Service Bulletin SB–195, Revision A, dated June 1, 2021 (True Flight SB–195, Revision A). This service information specifies procedures for inspecting the primary structure and flight controls for cracks, buckles, corrosion, delamination, rust, and previous repair and repairing or replacing parts and applying corrosion inhibitor as necessary.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in **ADDRESSES**.

**Other Related Service Information**

The FAA also reviewed True Flight Aerospace Service Kit 125, Revision B. This service information specifies procedures for repairing bondline delamination of flight controls and structures.

**AD Requirements**

This AD requires accomplishing the actions specified in the service information already described, except as discussed under “Differences Between the AD and the Service Information.”

**Differences Between the AD and the Service Information**

True Flight SB–195, Revision A applies to Models AA1, AA–1A, AA–1B, AA–1C, AA5, AA–5A, and AA–5B airplanes. However, this AD only

applies to Models AA-1, AA-1A, AA-1B, AA-1C, and AA-5 airplanes. Also, this AD only requires the Part B inspection and repair from True Flight SB-195, Revision A. Actions for the airplanes not affected by this AD are specified in Part A of True Flight SB-195, Revision A, thus the reason for reduced applicability. In addition, True Flight SB-195, Revision A, specifies a reporting requirement, but this AD does not.

**Justification for Immediate Adoption and Determination of the Effective Date**

Section 553(b)(3)(B) of the Administrative Procedure Act (APA) (5 U.S.C. 551 *et seq.*) authorizes agencies to dispense with notice and comment procedures for rules when the agency, for “good cause,” finds that those procedures are “impracticable, unnecessary, or contrary to the public interest.” Under this section, an agency, upon finding good cause, may issue a final rule without providing notice and seeking comment prior to issuance. Further, section 553(d) of the APA authorizes agencies to make rules effective in less than thirty days, upon a finding of good cause.

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies foregoing notice and comment prior to adoption of this rule because cracks, buckles, corrosion, delamination, rust, and previous repair of the horizontal stabilizers could result in reduced integrity and lead to loss of control of the airplane. Additionally, the compliance time for the inspection of the horizontal stabilizers is within 25

hours time-in-service or before the next 100 hour or annual inspection, whichever occurs first, a time period of up to 3 months based on the average utilization rate of these airplanes. This time period is shorter than the time necessary for the public to comment and for publication of the final rule. Accordingly, notice and opportunity for prior public comment are impracticable and contrary to the public interest pursuant to 5 U.S.C. 553(b)(3)(B).

In addition, the FAA finds that good cause exists pursuant to 5 U.S.C. 553(d) for making this amendment effective in less than 30 days, for the same reasons the FAA found good cause to forego notice and comment.

**Comments Invited**

The FAA invites you to send any written data, views, or arguments about this final rule. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA-2021-0541 and Project Identifier AD-2021-00453-A” at the beginning of your comments. The most helpful comments reference a specific portion of the final rule, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this final rule because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to <https://www.regulations.gov>, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this final rule.

**Confidential Business Information**

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this AD contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this AD, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as “PROPIN.” The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this AD. Submissions containing CBI should be sent to Fred Caplan, Aviation Safety Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, GA 30337. Any commentary that the FAA receives which is not specifically designated as CBI will be placed in the public docket for this rulemaking.

**Regulatory Flexibility Act**

The requirements of the Regulatory Flexibility Act (RFA) do not apply when an agency finds good cause pursuant to 5 U.S.C. 553 to adopt a rule without prior notice and comment. Because FAA has determined that it has good cause to adopt this rule without prior notice and comment, RFA analysis is not required.

**Costs of Compliance**

The FAA estimates that this AD affects 1,113 airplanes of U.S. registry.

The FAA estimates the following costs to comply with this AD:

**ESTIMATED COSTS**

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection for delamination and corrosion.	3 work-hours × \$85 per hour = \$255.	Not applicable .....	\$255	\$283,815

The FAA estimates the following costs to do any necessary repairs that

would be required based on the results of the inspection. The agency has no

way of determining the number of airplanes that might need these repairs:

**ON-CONDITION COSTS**

Action	Labor cost	Parts cost	Cost per product
Installation of rivets and repair of bondlines of the horizontal stabilizers.	8 work-hours × \$85 per hour = \$680 .....	\$115	\$795
Treatment of inside of the horizontal stabilizers with corrosion inhibitor.	1 work-hour × \$85 per hour = \$85 .....	104	189



### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs describes in more detail the scope of the Agency's authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

### Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866, and

(2) Will not affect intrastate aviation in Alaska.

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

### The Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive:

#### 2021–14–12 True Flight Holdings LLC:

Amendment 39–21639; Docket No. FAA–2021–0541; Project Identifier AD–2021–00453–A.

#### (a) Effective Date

This airworthiness directive (AD) is effective July 27, 2021.

#### (b) Affected ADs

None.

#### (c) Applicability

This AD applies to True Flight Holdings LLC Models AA–1, AA–1A, AA–1B, AA–1C, and AA–5 airplanes, all serial numbers, certificated in any category.

#### (d) Subject

Joint Aircraft System Component (JASC) Code: 5512, Horizontal Stabilizer, Plate/Skin; 5522, Elevator, Plates/Skin Structure.

#### (e) Unsafe Condition

This AD was prompted by corrosion and delamination of the horizontal stabilizer bondlines. The FAA is issuing this AD to detect and address cracks, buckles, corrosion, delamination, rust, and previous repair of the horizontal stabilizers. The unsafe condition, if not addressed, could result in reduced structural integrity with consequent loss of control of the airplane.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) Inspection of Bondlines of the Horizontal Stabilizers

Within the next 25 hours time-in-service or at the next scheduled 100 hour or annual inspection after the effective date of this AD, whichever occurs first, inspect the horizontal stabilizers, paying particular attention to the bondlines, for cracks, buckles, corrosion, delamination, rust, and previous repair in accordance with paragraphs 1. and 3. of Part B of True Flight Aerospace Service Bulletin SB–195, Revision A, dated June 1, 2021 (True Flight SB–195, Revision A). If there is any crack, buckle, corrosion, delamination, rust, or previous repair, before further flight, repair or replace the affected part in accordance with paragraphs 1.c. and 2. through 4. of True Flight SB–195, Revision A, as applicable.

#### (h) No Reporting Requirement

True Flight SB–195, Revision A specifies notifying True Flight Holdings LLC of compliance with the service bulletin; however, this AD does not contain that requirement.

#### (i) Special Flight Permit

A special flight permit is prohibited.

#### (j) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in Related Information.

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

#### (k) Related Information

For more information about this AD, contact Fred Caplan, Aviation Safety Engineer, Atlanta ACO Branch, FAA, 1701 Columbia Avenue, College Park, GA 30337; phone: (404) 474–5507; fax: (404) 474–5606; email: [frederick.n.caplan@faa.gov](mailto:frederick.n.caplan@faa.gov).

#### (l) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) True Flight Aerospace Service Bulletin SB–195, Revision A, dated June 1, 2021.

(ii) [Reserved]

(3) For True Flight Aerospace service information identified in this AD, contact True Flight Holdings LLC, 2300 Madison Highway, Valdosta, GA 31601; phone: (229) 242–6337; email: [info@trueflightaerospace.com](mailto:info@trueflightaerospace.com).

(4) You may view this service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, MO 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

(5) You may view this service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, email: [fedreg.legal@nara.gov](mailto:fedreg.legal@nara.gov), or go to: <https://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued on June 25, 2021.

**Lance T. Gant,**

*Director, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–14687 Filed 7–9–21; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Parts 61 and 141

[Docket No.: FAA–2021–0592]

#### Notification of Policy for Flight Training in Certain Aircraft

**AGENCY:** Federal Aviation Administration (FAA), Department of Transportation (DOT).

**ACTION:** Notification of policy.

**SUMMARY:** This notification provides clarification on flight training for compensation in certain aircraft that hold special airworthiness certificates including limited category,

experimental category, and primary category aircraft. It also provides guidance on how flight training for compensation can be accomplished in these aircraft in compliance with regulations and establishes a process for owners of experimental aircraft to obtain a letter of deviation authority to receive and provide compensation for flight training in their experimental aircraft.

**DATES:** The policy described herein is effective July 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** For technical questions concerning this policy notification, contact Erin Cappel for information about Letters of Deviation Authority and Thomas (TJ) Leahy for information about exemption, General Aviation and Commercial Division, General Aviation Operations Branch, (202) 267-1100, or email [9-AFS-800-Correspondence@faa.gov](mailto:9-AFS-800-Correspondence@faa.gov), 800 Independence Ave. SW, Washington, DC 20591.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

On April 2, 2021, the United States Court of Appeals for the District of Columbia Circuit dismissed a petition for review of the FAA's emergency cease and desist order against Warbird Adventures, Inc. and Thom Richard (hereinafter "Warbirds"), ordering that they cease and desist from operating their limited category aircraft in violation of § 91.315 of title 14 of the Code of Federal Regulations (14 CFR). In this case, Warbirds maintained a publicly available website that advertised opportunities to fly in Warbirds' limited category aircraft at upcoming airshows and allowed members of the public to book flights in exchange for substantial amounts of money. Section 91.315 states that no person may operate a limited category aircraft carrying persons or property for compensation or hire.

Before the Court, Warbirds argued that it was conducting flight training for compensation in its limited category aircraft, which it claimed is not prohibited under § 91.315.<sup>1</sup> The FAA responded that, under the plain language of § 91.315, flight training for compensation constitutes operating a limited category aircraft carrying a person for compensation or hire and, therefore, is a violation of the regulation. After the Court dismissed the petition for review, several industry groups requested that the FAA publish

<sup>1</sup> The FAA has not conceded that the flights being operated by Warbirds were for the purpose of flight training.

a statement explaining the impact of the decision and providing clarification regarding flight training in general and flight training for compensation in certain aircraft that hold special airworthiness certificates.<sup>2</sup> The FAA is issuing this notification in response to the request from industry.

**II. FAA Regulations and Guidance**

*A. Pilot Requirements and Operating Requirements*

The requirements for a person exercising the privileges of a pilot certificate or a flight instructor certificate are generally contained in 14 CFR part 61. These regulations govern what is required to "act as pilot in command," "serve as a required flightcrew member," or "conduct flight training in an aircraft." The regulations in 14 CFR part 91 by contrast contain operating requirements that govern how the aircraft itself may be operated. The term "operate" is broadly defined in 14 CFR 1.1 as "use, cause to use or authorize to use aircraft, for the purpose (except as provided in § 91.13 of this chapter) of air navigation including the piloting of aircraft, with or without the right of legal control (as owner, lessee, or otherwise)." As such, the determination of whether someone is operating an aircraft is not contingent on ownership, flightcrew status, or the receipt of payment for the use of the aircraft.

Although a person may hold the appropriate privileges "to act as pilot in command" or "conduct flight training" under part 61, the regulations in part 91 may restrict the exercise of those privileges in a particular category of aircraft under certain conditions, such as operations conducted for compensation or hire. As defined, the term "operate" has broader meaning than the general terms used in part 61 that address "acting as pilot in command" or "exercising the privileges" of a particular pilot certificate. A person may be considered to "operate" an aircraft under the § 1.1 definition without serving as a required flightcrew member or manipulating the controls of the aircraft.

As noted, under § 91.315, no person may operate a limited category aircraft carrying persons or property for compensation or hire. Based on the plain language of the regulation, the FAA's position as represented in a 2014

<sup>2</sup> On April 19, 2021, AOPA, EAA, and GAMA sent a joint letter to Ali Bahrami, then Associate Administrator for Aviation Safety. A copy of this letter and the response has been placed in the docket for this notification.

legal interpretation<sup>3</sup> and restated in the *Warbirds* case is that a flight instructor who is operating (*i.e.* "using") a limited category aircraft that is carrying a person (*e.g.* the person receiving instruction) for compensation (*e.g.* monetary payment) is acting contrary to the regulation.<sup>4</sup>

The regulations governing other categories of aircraft (experimental aircraft in § 91.319 and primary category aircraft in § 91.325) include the same language as the prohibition in § 91.315. The prohibitions in §§ 91.319 and 91.325 that mirror the language in § 91.315 must be read to have the same meaning.<sup>5</sup> As such, a flight instructor providing flight training in one of these categories of aircraft for compensation is acting contrary to the regulations absent a letter of deviation authority (LODA), if applicable, or exemption.

*B. FAA Guidance on Flight Training for Compensation in Experimental Aircraft*

FAA Order 8900.1 contains guidance for FAA inspectors that indicates that flight training in an experimental aircraft for compensation is permissible without a LODA under certain circumstances.<sup>6</sup> The guidance states that flight instructors may receive compensation for providing flight training in an experimental aircraft but may not receive compensation for the use of the aircraft in which they provide that flight training unless they obtain a LODA issued under § 91.319(h). Likewise, the guidance states that owners of experimental aircraft may receive and provide compensation for flight training in their aircraft without a LODA, but owners may not receive compensation for the use of their aircraft for flight training except in

<sup>3</sup> FAA Legal Interpretation to Gregory Morris (October 7, 2014). The Morris Interpretation concluded, *inter alia*, that § 91.315 "does not set forth any exceptions for providing flight training for hire in a limited category aircraft" and that "the only way to provide such training is pursuant to an exemption from this section of the regulations" following the procedures of 14 CFR part 11.

<sup>4</sup> Given the broad definition of "operate" in § 1.1, both the owner of a limited category aircraft seeking flight training and the flight instructor providing the training are considered to be operating the aircraft. The FAA notes that the term "operate" has a different meaning from the term "operational control," which is defined in § 1.1 as "the exercise of authority over initiating, conducting or terminating a flight."

<sup>5</sup> Consistent with the position for limited category aircraft, FAA Order 8900.1 addresses the prohibition against the operation of an experimental aircraft to carry persons or property for compensation or hire. It acknowledges that the restriction "prohibits the widespread use of experimental aircraft for flight training for compensation or hire." FAA Order 8900.1, Vol. 3, Chpt. 11, sec. 1, para. 3–293.

<sup>6</sup> FAA Order 8900.1, Vol. 3, Chpt. 11, sec. 1, para. 3–292.

accordance with a LODA issued under § 91.319(h).<sup>7</sup>

The distinction set forth in FAA Order 8900.1 is inconsistent with the definition of “operate” in § 1.1 and the plain language of § 91.319. Where a regulation and guidance conflict, the regulation controls.<sup>8</sup> Accordingly, owners of experimental aircraft and flight instructors who have operated experimental aircraft for the purpose of compensated flight training without obtaining a LODA (as allowed by FAA guidance) will be required to obtain a LODA to remain compliant with the regulations.

### III. Process for Compliance

The FAA acknowledges that the disconnect between the regulations and the guidance to inspectors has created confusion in industry. The FAA also recognizes the value of specialized flight training in aircraft that hold special airworthiness certificates under certain conditions. This section provides guidance to owners of affected aircraft and flight instructors seeking to conduct flight training for compensation in these aircraft.

#### A. Experimental Category Aircraft

In general, the FAA places limitations on the use of aircraft that hold experimental airworthiness certificates because the airworthiness certification requirements for these aircraft impose no standard and pose unique operational risk to the national airspace system. FAA regulations and guidance direct that, for most training, pilots should use a standard category aircraft to accomplish training rather than aircraft that hold special airworthiness certificates.

Section 91.319(h), however, permits a person to apply for deviation authority to conduct flight training in an experimental aircraft. Currently, individuals seeking to provide flight training and receive compensation for both the flight training and the use of the experimental aircraft must submit an application package to the Flight Standards District Office (FSDO) in the district in which the training will take place. Under § 91.319(h)(2), a request for deviation authority must contain a complete description of the proposed operation and justification that establishes a level of safety equivalent to that provided under the regulations for

the deviation requested. The FAA generally limits LODAs to training that can only be accomplished in aircraft with experimental certificates and directs its inspectors that, with a few exceptions, LODAs should not be issued to permit flight training in experimental aircraft leading toward the issuance of a pilot certificate, rating, or operating privilege.

As discussed, FAA guidance incorrectly indicates that no LODA is necessary if the owner of an experimental aircraft provides compensation for flight training in the owner’s own aircraft and no compensation is provided for the use of the aircraft itself. The FAA will update the guidance to align with the regulation, as previously discussed. To mitigate disruption for this type of flight training, which has been allowed under FAA guidance and is viewed as an increased safety measure for pilots who regularly fly these aircraft, the FAA has developed an interim process to issue LODAs to the owners of experimental aircraft and flight instructors that will permit flight training for compensation in experimental aircraft when no compensation is provided for the use of the aircraft.

The FAA finds that, for owners of experimental aircraft seeking flight training in the aircraft they will regularly fly in the national airspace, the standard under § 91.319(h)(2) for granting a LODA has been met. The FAA has long emphasized the importance of pilots being trained and checked in the aircraft they will operate. Specifically, it is critical that pilots understand and are familiar with the particular systems, procedures, operating characteristics, and limitations of the aircraft they will operate. This flight training is distinct from a situation where an aircraft with a special airworthiness certificate is “held out” broadly for training to individuals who pay for both the flight training and the use of an aircraft that they will not have further access to upon completion of LODA training. It is also distinct from flight training that can be accomplished effectively and safely in a standard category aircraft.

The FAA will accept requests for a LODA electronically from an owner of an experimental aircraft or flight instructor who chooses to conduct training in experimental aircraft. LODAs, once issued, will define the scope of the flight training activity so that owners of experimental aircraft may receive and provide compensation for flight training in their aircraft, as well as permit flight instructors to receive compensation for flight training in an

experimental aircraft. These LODAs will prohibit owners and flight instructors from receiving compensation for any other use of the aircraft in which the flight training is provided.

To obtain a LODA, owners of experimental aircraft and flight instructors providing flight training in experimental aircraft may submit a request to the following email address: [9-AVS-AFG-LODA@faa.gov](mailto:9-AVS-AFG-LODA@faa.gov). Applicants seeking a LODA through this process must provide the following information:

- Name
- Address
- Email address
- Pilot Certificate Number
- Flight instructor certificate number (if applying as a Certificated Flight Instructor (CFI))
- Aircraft Registration Number (if applying as an owner)
- Aircraft make/model in which you will receive or provide instruction
- Aircraft home base airport (if applying as an owner)

The FAA will review the information submitted and issue a LODA (via email) that reflects the conditions and limitations contained in this notification, as well any additional limitations required in accordance with § 91.319(h) and (i).

Individuals seeking to provide flight training and receive compensation for both the flight training and the use of the aircraft must continue to apply for LODAs through their local FSDOs.

#### B. Limited Category and Primary Category Aircraft

Section 91.315 does not permit an individual to obtain deviation authority to conduct flight training for compensation or hire in a limited category aircraft. Therefore, as explained in the 2014 legal interpretation, the only way to provide flight training for compensation in a limited category aircraft is pursuant to an exemption from the regulation. Because there is no deviation authority in § 91.325 for primary category aircraft, the owners of these aircraft and flight instructors seeking to conduct flight training for compensation must likewise obtain an exemption from the regulation.

As with the process for issuing LODAs to owners and flight instructors, the FAA will consider adopting a fast-track exemption process for owners of limited category and primary category aircraft seeking to conduct flight training for compensation in these aircraft. As with experimental category aircraft, the FAA will consider granting relief for flight training operations when

<sup>7</sup> Although there is no written guidance for limited category and primary category aircraft, the FAA has applied the same approach to flight training for compensation in limited category and primary category aircraft.

<sup>8</sup> The FAA will revise the guidance in the 8900.1 to reflect the requirements in the regulation.

compensation is provided solely for the flight training and not the use of the aircraft.

The FAA notes that any operator of a limited category aircraft that holds an exemption to conduct Living History of Flight (LHFE) operations already holds the necessary exemption relief to conduct flight training for its flightcrew members. LHFE exemptions grant relief *to the extent necessary* to allow the exemption holder to operate certain aircraft for the purpose of carrying persons for compensation or hire for living history flight experiences. As a condition of these exemptions, the operators must provide regular flight training and checking to flightcrew members. As such, these flight training operations are considered necessary for the operator to conduct the LHFE flights themselves.<sup>9</sup> The FAA will clarify this relief when operators apply for renewal of their LHFE exemptions.

For the safety reasons set forth in this notification, the FAA is considering a rulemaking that would enable the flight training activity discussed in this notification without the need to obtain an exemption or LODA from the FAA.

Issued in Washington, DC.

**Ricardo Domingo,**

*Executive Director, Flight Standards Service, AFX-1.*

[FR Doc. 2021-14765 Filed 7-8-21; 8:45 am]

**BILLING CODE 4910-13-P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

#### 15 CFR Part 744

[Docket No. 210702-0143]

RIN 0694-A157

#### **Addition of Certain Entities to the Entity List; Revision of Existing Entry on the Entity List; Removal of Entity From the Unverified List; and Addition of Entity to the Military End-User (MEU) List**

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Export Administration Regulations (EAR) by adding thirty-four entities

<sup>9</sup> The FAA cautions, however, that LHFE exemptions do not permit operators to allow passengers on LHFE flights to manipulate the controls of the aircraft under the guise of flight training. The flight training relief extends only to the LHFE operator's own flightcrew members for the purpose of training those individuals to conduct LHFE flights.

under forty-three entries to the Entity List. These thirty-four entities have been determined by the U.S. Government to be acting contrary to the foreign policy interests of the United States and will be listed on the Entity List under the destinations of Canada; People's Republic of China (China); Iran; Lebanon; Netherlands (The Netherlands); Pakistan; Russia; Singapore; South Korea; Taiwan; Turkey; the United Arab Emirates (UAE); and the United Kingdom. This final rule also revises one entry on the Entity List under the destination of China. This final rule also removes one entry from the Entity List under the destination of Germany. This final rule removes one entity from the Unverified List, as a conforming change to this same entity being added to the Entity List. In addition, this final rule amends the EAR by adding one entity to the Military End-User (MEU) List under the destination of Russia.

**DATES:** This rule is effective July 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Chair, End-User Review Committee, Office of the Assistant Secretary for Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482-5991, Email: [ERC@bis.doc.gov](mailto:ERC@bis.doc.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The Entity List (supplement no. 4 to part 744 of the EAR) identifies entities for which there is reasonable cause to believe, based on specific and articulable facts, that the entities have been involved, are involved, or pose a significant risk of being or becoming involved in activities contrary to the national security or foreign policy interests of the United States. The EAR (15 CFR parts 730-774) impose additional license requirements on, and limit the availability of most license exceptions for, exports, reexports, and transfers (in-country) to listed entities. The license review policy for each listed entity is identified in the "License Review Policy" column on the Entity List, and the impact on the availability of license exceptions is described in the relevant **Federal Register** document adding entities to the Entity List. BIS places entities on the Entity List pursuant to part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The 'Military End-User' (MEU) List (supplement no. 7 to part 744 of the EAR) identifies entities that have been determined by the End-User Review

Committee (ERC) to be 'military end users' pursuant to § 744.21 of the EAR. That section imposes additional license requirements on, and limits the availability of, most license exceptions for, exports, reexports, and transfers (in-country) to listed entities on the MEU List, as specified in supplement no. 7 to part 744 and § 744.21 of the EAR. Entities may be listed on the MEU List under the destinations of Burma, China, Russia, or Venezuela. The license review policy for each listed entity is identified in the introductory text of supplement no. 7 to part 744 and in § 744.21(b) and (e). The MEU List includes introductory text, which specifies the scope of the license requirements, limitations on the use of EAR license exceptions, and the license review policy that applies to the entities. These requirements are also reflected in § 744.21, but for ease of reference, these are also included in the introductory text of the supplement.

The Unverified List, found in supplement no. 6 to part 744 of the EAR, contains the names and addresses of foreign persons who are or have been parties to a transaction, as such parties are described in § 748.5 of the EAR, involving the export, reexport, or transfer (in-country) of items subject to the EAR, and whose bona fides BIS has been unable to verify through an end-use check. BIS may add persons to the Unverified List when BIS or federal officials acting on BIS's behalf have been unable to verify a foreign person's bona fides because an end-use check, such as a pre-license check or a post-shipment verification, cannot be completed satisfactorily for reasons outside the U.S. Government's control.

The ERC, composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List and MEU List. The ERC makes all decisions to add an entry to the Entity List and MEU List by majority vote and makes all decisions to remove or modify an entry by unanimous vote. In addition, when an entity listed on the Unverified List is being added to the Entity List based on a majority vote of the ERC, the ERC's determination to add that entity to the Entity List constitutes interagency approval for a conforming change to remove the same entity from the Unverified List in supplement no. 6 to part 744 of the EAR.

**ERC Entity List Decisions***Additions to the Entity List*

This rule implements the decision of the ERC to add thirty-four entities under forty-three entries to the Entity List. The thirty-four entities are added based on § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. The thirty-four entities are located in Canada; China; Iran; Lebanon; the Netherlands; Pakistan; Russia; Singapore; South Korea; Taiwan; Turkey; the UAE; and the United Kingdom. Of the forty-three entries, two are located in Canada, twenty-three are located in China, two are located in Iran, two are located in Lebanon, one is located in the Netherlands, one is located in Pakistan, six are located in Russia, one is located in Singapore, one is located in South Korea, one is located in Taiwan, one is located in Turkey, one is located in the UAE, and one is located in the United Kingdom. Five entities are listed under multiple destinations, accounting for the difference between the number of entities and number of entries in this final rule.

The ERC determined to add Karim Daadaa; Modern Agropharmaceuticals & Trade Establishment; Payam Nabavi; and Sina Biomedical Chemistry Company to the Entity List for engaging in conduct contrary to the national security and foreign policy interests of the United States. Specifically, the ERC determined that there is reasonable cause to believe, based on specific and articulable facts, that these entities facilitated the export of U.S. items to Iran in violation of the EAR.

The ERC determined to add China Academy of Electronics and Information Technology; Xinjiang Lianhai Chuangzhi Information Technology Co., Ltd.; Leon Technology Co., Ltd.; Xinjiang Tangli Technology Co., Ltd.; Shenzhen Cobber Information Technology Co., Ltd.; Xinjiang Sailing Information Technology Co., Ltd.; Beijing Geling Shentong Information Technology Co., Ltd.; Tongfang R.I.A. Co., Ltd.; Shenzhen Hua'antai Intelligent Technology Co., Ltd.; Chengdu Xiwu Security System Alliance Co., Ltd.; Beijing Sinonet Science & Technology Co., Ltd.; Urumqi Tianyao Weiye Information Technology Service Co., Ltd.; Suzhou Keda Technology Co., Ltd.; and Xinjiang Beidou Tongchuang Information Technology Co., Ltd. to the Entity List for enabling activities contrary to the foreign policy interests of the United States. Specifically, these entities have been implicated in human rights

violations and abuses in the implementation of China's campaign of repression, mass detention, and high-technology surveillance against Uyghurs, Kazakhs, and other members of Muslim minority groups in the Xinjiang Uyghur Autonomous Region (XUAR).

The ERC determined to add Hangzhou Hualan Microelectronics Co., Ltd. and Kyland Technology Co., Ltd.; along with Kyland subsidiaries Armyfly and Kindroid, for activities contrary to the national security and foreign policy of the United States. Specifically, the ERC determined that these entities are acquiring and are attempting to acquire U.S.-origin items in support of military modernization for the People's Liberation Army.

The ERC determined to add Wuhan Raycus Fiber Laser Technologies Co., Ltd. to the Entity List for engaging in conduct that poses a risk of violating the EAR. Specifically, the ERC determined this entity has potentially been involved in the procurement of U.S.-origin items for unauthorized military end-use.

The ERC determined to add Beijing Hileed Solutions Co., Ltd.; Beijing E-Science Co., Ltd.; Info Rank Technologies; and Wingel Zhang to the Entity List for exporting and attempting to export items subject to the EAR to an entity on the U.S. Department of the Treasury's Office of Foreign Asset Control Specially-Designated Nationals List without the necessary licenses.

The ERC determined to add OOO Teson; the Radiant Group of Companies; OOO Trade-Component; and the three associated individuals, Andrey Leonidovich Kuznetsov, Margarita Vasilyevna Kuznetsova, and Dmitry Alexandrovich Kravchenko, on the basis of their attempts to procure items, including U.S.-origin items, for activities contrary to the national security and foreign policy interests of the United States. Specifically, OOO Teson, the Radiant Group of Companies, and OOO Trade-Component are involved in the procurement of U.S.-origin electronic components likely in furtherance of Russian military programs.

The ERC determined that TEM International FZC is involved in proliferation to unsafeguarded nuclear activities that are contrary to the national security and/or foreign policy interests of the United States.

*License Review Policy*

For one entity—TEM International FZC—BIS imposes the license review policy set forth in § 744.2(d) (restrictions on certain nuclear end-uses) of the EAR for all items subject to

the EAR. For thirteen of the thirty-four entities, which constitute thirteen of the fourteen XUAR-related entities, added to the Entity List by this rule, China Academy of Electronics and Information Technology; Xinjiang Lianhai Chuangzhi Information Technology Co. Ltd.; Leon Technology Co. Ltd.; Xinjiang Tangli Technology Co. Ltd.; Shenzhen Cobber Information Technology Co. Ltd.; Xinjiang Sailing Information Technology Co. Ltd.; Beijing Geling Shentong Information Technology Co. Ltd.; Tongfang R.I.A. Co. Ltd.; Shenzhen Hua'antai Intelligent Technology Co. Ltd.; Chengdu Xiwu Security System Alliance Co. Ltd.; Beijing Sinonet Science & Technology Co. Ltd.; Urumqi Tianyao Weiye Information Technology Service Co. Ltd.; and Xinjiang Beidou Tongchuang Information Technology Co. Ltd., BIS imposes a license review policy of case-by-case review for Export Control Classification Numbers (ECCNs) 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, for EAR99 items described in the Note to ECCN 1A995, and for items necessary to detect, identify, and treat infectious disease, with a presumption of denial for all other items subject to the EAR. For one of the fourteen XUAR-related entities, Suzhou Keda Technology Co., Ltd., added to the Entity List by this rule, BIS imposes a license requirement for all items subject to the EAR and a license review policy of presumption of denial for all items subject to the EAR, given this entity's additional relationship with military end-users. For the remaining eighteen of the thirty-four entities described above that are being added to the Entity List, BIS imposes a license requirement for all items subject to the EAR and a license review policy of presumption of denial for all items subject to the EAR.

For all thirty-four entities, the license requirements apply to any transaction in which items are to be exported, reexported, or transferred (in country) to any of the entities or in which such entities act as purchaser, intermediate consignee, ultimate consignee, or end user. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the entities being added to the Entity List in this rule. The acronym "a.k.a.," which is an abbreviation of 'also known as' is used in entries on the Entity List to identify aliases, thereby assisting exporters, reexporters, and transferors in identifying entities on the Entity List.

For the reasons described above, this final rule adds the following thirty-four entities under forty-three entries to the Entity List and includes, where appropriate, aliases:

## Canada

- Karim Daadaa; *and*
- Modern Agropharmaceuticals & Trade Establishment.

## China, People's Republic of

- Armyfly;
- Beijing E-science Co., Ltd.;
- Beijing Geling Shentong Information Technology Co., Ltd.;
- Beijing Hileed Solutions Co., Ltd.;
- Beijing Sinonet Science & Technology Co., Ltd.;
- Chengdu Xiwu Security System Alliance Co., Ltd.;
- China Academy of Electronics and Information Technology;
- Hangzhou Hualan Microelectronics Co., Ltd.;
- Info Rank Technologies;
- Kindroid;
- Kyland Technology Co., Ltd.;
- Leon Technology Co., Ltd.;
- Shenzhen Cobber Information Technology Co., Ltd.;
- Shenzhen Hua'antai Intelligent Technology Co., Ltd.;
- Suzhou Keda Technology Co., Ltd.;
- Tongfang R.I.A. Co., Ltd.;
- Urumqi Tianyao Weiye Information Technology Service Co., Ltd.;
- Wingel Zhang;
- Wuhan Raycus Fiber Laser Technologies Co., Ltd.;
- Xinjiang Beidou Tongchuang Information Technology Co., Ltd.;
- Xinjiang Lianhai Chuangzhi Information Technology Co., Ltd.;
- Xinjiang Sailing Information Technology Co., Ltd.; *and*
- Xinjiang Tangli Technology Co., Ltd.

## Iran

- Payam Nabavi; *and*
- Sina Biomedical Chemistry Company.

## Lebanon

- Karim Daadaa; *and*
- Modern Agropharmaceuticals & Trade Establishment.

## Netherlands

- Suzhou Keda Technology Co., Ltd.

## Pakistan

- Suzhou Keda Technology Co., Ltd.

## Russia

- Andrey Leonidovich Kuznetsov;
- Dmitry Alexandrovich Kravchenko;
- Margarita Vasilyevna Kuznetsova;
- OOO Teson;
- OOO Trade-Component; *and*
- Radiant Group of Companies.

## Singapore

- Suzhou Keda Technology Co., Ltd.

## South Korea

- Suzhou Keda Technology Co., Ltd.

## Taiwan

- Hangzhou Hualan Microelectronics Co., Ltd.

## Turkey

- Suzhou Keda Technology Co., Ltd.

## United Arab Emirates

- TEM International FZC.

## United Kingdom

- China Academy of Electronics and Information Technology.

*Removals From the Entity List*

This rule implements a decision of the ERC to remove "Maintenance Services International (MSI) GmbH," one entity located in Germany, from the Entity List, on the basis of a removal request. The entry for Maintenance Services International (MSI) GmbH was added to the Entity List on December 22, 2020 (85 FR 83416). The ERC decided to remove this entry based on information BIS received pursuant to § 744.16 of the EAR, and the review the ERC conducted in accordance with procedures described in supplement No. 5 to part 744 of the EAR.

This final rule implements the decision to remove the following entity, located in Germany, from the Entity List:

## Germany

- Maintenance Services International (MSI) GmbH.

*Revision to the Entity List*

The ERC agreed to revise the existing entry for "Kuang-Chi Group," added to the Entity List under the destination of China on December 22, 2020 (85 FR 83416). This revision will remove Guangqi Science Co., Ltd. as an alias for Kuang-Chi Group. The ERC decided to modify this entry to reflect the entity's correct organizational structure.

**ERC Unverified List Decisions***Removal From Unverified List as a Conforming Change for an Addition to the Entity List*

This rule removes "TEM International FZC," an entity located in the UAE, from the Unverified List in supplement no. 6 to part 744 of the EAR. The entry for TEM International FZC was added to the Unverified List on May 17, 2018 (83 FR 22842). BIS is removing the entry for TEM International FZC from the Unverified List because of the ERC determination to add this same entity to the Entity List, as described above. This final rule, as a conforming change to the

addition of TEM International FZC to the Entity List, removes TEM International FZC from the Unverified List in supplement no. 6 to part 744. The EAR does not prohibit the listing of entities on the Unverified List and Entity List at the same time. However, as a matter of policy, BIS intends to remove any entity from the Unverified List when the ERC makes a determination that the same entity warrants being included on the more restrictive Entity List. In order to ensure there is no gap in coverage between these two EAR lists, the addition of an entity to the Entity List and the removal from the Unverified List will occur in the same rule whenever this scenario occurs.

**ERC MEU List Decisions***Addition to the MEU List*

Under § 744.21(b) of the EAR, BIS may inform persons either individually by specific notice, through amendment to the EAR published in the **Federal Register**, or through a separate notice published in the **Federal Register**, that a license is required for specific exports, reexports, or transfers (in-country) of any item because there is an unacceptable risk of use in or diversion to a 'military end use' or 'military end user' in Burma, China, Russia, or Venezuela. Under § 744.21(b)(1) of the EAR, BIS may designate entities subject to this additional prohibition under paragraph (b) that have been determined by the ERC to be a 'military end user' pursuant to § 744.21. These entities will be added to supplement no. 7 to part 744 ('Military End-User' (MEU) List) in **Federal Register** notices published by BIS.

This rule implements the decision of the ERC to add one entity to the MEU List. This entity will be listed on the MEU List under the destination of Russia. The ERC made the decision to add this entity under the standard set forth in § 744.21 of the EAR, including the criteria for what constitutes a 'military end use' under paragraph (f) and 'military end user' under paragraph (g).

The license requirement for this entity applies to the export, reexport, or transfer (in-country) of any item subject to the EAR listed in supplement no. 2 to part 744. For this entity added to the MEU List by this rule, BIS imposes a license review policy of a presumption of denial as set forth in § 744.21(e) of the EAR.

No license exceptions are available for exports, reexports, or transfers (in-country) to listed entities on the MEU List for items specified in supplement

no. 2 to part 744, except license exceptions for items authorized under the provisions of License Exception GOV set forth in § 740.11(b)(2)(i) and (ii) of the EAR.

The acronym “a.k.a.,” which is an abbreviation of ‘also known as,’ is used in entries on the MEU List to identify aliases, thereby assisting exporters, reexporters, and transferors in identifying entities on the MEU List.

For the reasons described above, this final rule adds the following one entity to the MEU List:

Russia

- JSC Kazan Helicopter Plant Repair Service.

#### Savings Clause

Shipments of items removed from eligibility for a License Exception or for export, reexport, or transfer (in-country) without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export, reexport, or transfer (in-country) on July 12, 2021, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export, reexport, or transfer (in-country) without a license (NLR).

#### Export Control Reform Act of 2018

On August 13, 2018, the President signed into law the John S. McCain National Defense Authorization Act for Fiscal Year 2019, which included the Export Control Reform Act of 2018 (ECRA) (50 U.S.C. 4801–4852). ECRA provides the legal basis for BIS’s principal authorities and serves as the authority under which BIS issues this rule.

#### Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to or be subject to a penalty for failure to comply with a collection

of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and commodity classification, and carries a burden estimate of 29.6 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule.

3. This rule does not contain policies with federalism implications as that term is defined in Executive Order 13132.

4. Pursuant to section 1762 of the Export Control Reform Act of 2018, this action is exempt from the Administrative Procedure Act (5 U.S.C. 553) requirements for notice of proposed rulemaking, opportunity for public participation, and delay in effective date.

5. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, are not applicable. Accordingly, no regulatory flexibility analysis is required, and none has been prepared.

#### List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

#### PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

**Authority:** 50 U.S.C. 4801–4852; 50 U.S.C. 4601 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.*; 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of September 18, 2020, 85 FR 59641 (September 22, 2020); Notice of November 12, 2020, 85 FR 72897 (November 13, 2020).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. Under CANADA, by adding in alphabetical order entries for “Karim Daadaa” and “Modern Agropharmaceuticals & Trade Establishment”;

■ b. Under CHINA, PEOPLE’S REPUBLIC OF:

■ i. By adding in alphabetical order entries for “Armyfly,” “Beijing E-science Co., Ltd.,” “Beijing Geling Shentong Information Technology Co., Ltd.,” “Beijing Hileed Solutions Co., Ltd.,” “Beijing Sinonet Science & Technology Co., Ltd.,” “Chengdu Xiwu Security System Alliance Co., Ltd.,” “China Academy of Electronics and Information Technology,” “Hangzhou Hualan Microelectronics Co., Ltd.,” “Info Rank Technologies,” and “Kindroid”;

■ ii. By revising the entry for “Kuang-Chi Group”; and

■ iii. By adding in alphabetical order entries for “Kyland Technology Co., Ltd.,” “Leon Technology Co., Ltd.,” “Shenzhen Cobber Information Technology Co., Ltd.,” “Shenzhen Hua’antai Intelligent Technology Co., Ltd.,” “Suzhou Keda Technology Co., Ltd.,” “Tongfang R.I.A. Co., Ltd.,” “Urumqi Tianyao Weiye Information Technology Service Co., Ltd.,” “Wingel Zhang,” “Wuhan Raycus Fiber Laser Technologies Co., Ltd.,” “Xinjiang Beidou Tongchuang Information Technology Co., Ltd.,” “Xinjiang Lianhai Chuangzhi Information Technology Co., Ltd.,” “Xinjiang Sailing Information Technology Co., Ltd.,” and “Xinjiang Tangli Technology Co., Ltd.”;

■ c. Under GERMANY, by removing the entry for “Maintenance Services International (MSI) GmbH”;

■ d. Under IRAN, by adding in alphabetical order entries for “Payam Nabavi” and “Sina Biomedical Chemistry Company”;

■ e. Under LEBANON, by adding in alphabetical order entries for “Karim Daadaa” and “Modern Agropharmaceuticals & Trade Establishment”;

■ f. Under NETHERLANDS, by adding in alphabetical order an entry for “Suzhou Keda Technology Co., Ltd.”;

■ g. Under PAKISTAN, by adding in alphabetical order an entry for “Suzhou Keda Technology Co., Ltd.”;

■ h. Under RUSSIA, by adding in alphabetical order entries for “Andrey Leonidovich Kuznetsov,” “Dmitry Alexandrovich Kravchenko,” “Margarita Vasilyevna Kuznetsova,” “OOO Teson,” “OOO Trade-Component,” and “Radiant Group of Companies”;

- i. Under SINGAPORE, by adding in alphabetical order an entry for “Suzhou Keda Technology Co., Ltd.”;
- j. Under SOUTH KOREA:
  - i. By arranging the entries in alphabetical order; and
  - ii. By adding in alphabetical order an entry for “Suzhou Keda Technology Co., Ltd.”;
- k. Under TAIWAN, by adding in alphabetical order an entry for

- “Hangzhou Hualan Microelectronics Co., Ltd.”;
- l. Under TURKEY, by adding in alphabetical order an entry for “Suzhou Keda Technology Co., Ltd.”;
- m. Under the UNITED ARAB EMIRATES, by adding in alphabetical order an entry for “TEM International FZC”; and

- n. Under UNITED KINGDOM, by adding in alphabetical order an entry for “China Academy of Electronics and Information Technology”.

The additions and revisions read as follows:

**Supplement No. 4 to Part 744—Entity List**

\* \* \* \* \*

Country	Entity	License requirement	License review policy	Federal Register citation
*	*	*	*	*
CANADA	*	*	*	*
	Karim Daadaa, a.k.a., the following one alias: —Karim Hamdi Mohd El Daadaa. 235 Rue Maisonneuve, Laval, Canada. (See alternate addresses under Lebanon).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	*	*	*	*
	Modern Agropharmaceuticals & Trade Establishment, 235 Rue Maisonneuve, Laval, Canada. (See alternate addresses under Lebanon).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	*	*	*	*
*	*	*	*	*
CHINA, PEOPLE'S REPUBLIC OF.	*	*	*	*
	Armyfly, a.k.a., the following three aliases: —Beijing Dongtu Junyue Technology; —Beijing Junyue Faixiang Technology; <i>and</i> —Beijing Kyland Junyue Technology. 2nd Floor, Chongxin Creative Building, No. 18 Shixing East Street, Shijingshan Park, Zhongguancun Science Park, Shijingshan District, Beijing, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	*	*	*	*
	Beijing E-science Co., Ltd., a.k.a, the following alias: —Beijing Yanjing Electronics Co., Ltd. No. 9 Jiuxianqiao East Rd, Chaoyang, Beijing, China 100015; <i>and</i> A36–2 Huanyuan Haidian, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	*	*	*	*
	Beijing Geling Shentong Information Technology Co., Ltd., a.k.a., the following two aliases: —DeepGlint; <i>and</i> —Deep Glint International. 1A025, 101, 1st Floor, No. 1, Wangjing East Road, Chaoyang District, Beijing, China; <i>and</i> Building B, Building 1, Tiandi Linfeng Innovation Industrial Park, 1 Yongtaizhuang North Road, Haidian District, Beijing, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].



Country	Entity	License requirement	License review policy	Federal Register citation
	Beijing Hileed Solutions Co., Ltd., a.k.a, the following three aliases: Beijing Alite Technologies Co.; —ALCO; <i>and</i> —Beijing Haili Lianhe Keji Youxian Gongsi. A36–2 Xisanqi Huanyuan Haidian District, China; <i>and</i> West of 7/F, A2, No. 9 Jiuxianqiao East Road, Chaoyang Dist., Beijing, China, 100016; <i>and</i> Room 701, Floor 7, Building 2, No. 9 Courtyard, Jiuxianqiao East, Beijing, China; <i>and</i> 12A Beisanhuan Zhong Road, P.O. Box 3042, Beijing, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
		*	*	*
	Beijing Sinonet Science & Technology Co., Ltd., Building 5, Courtyard No. 7, Dijin Road, Haidian District, Beijing, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
		*	*	*
	Chengdu Xiwu Security System Alliance Co., Ltd., a.k.a., the following two aliases: —Chengdu Xiwuxinan Intelligent System Co., Ltd.; <i>and</i> —XWSESA No. 7, Section 4, Renmin South Road, Wuhou District, Chengdu, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
		*	*	*
	China Academy of Electronics and Information Technology, a.k.a., the following two aliases: —CAEIT; <i>and</i> —CETC CAEIT. 11 Shuangyuan Road, Badachu High-Tech Park, Shijingshan District, Beijing, China. (See alternative address under United Kingdom.)	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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Country	Entity	License requirement	License review policy	Federal Register citation
	Hangzhou Hualan Microelectronics Co., Ltd., a.k.a., the following five aliases: —Hangzhou Hualan Microelectronique Co., Ltd.; —Hualan Micro; —Sage Microelectronics Corporation; —Sage Micro; <i>and</i> —Hangzhou Huasheng Microelectronics. 22nd Floor, Building 1, Huarui Center, No. 66 Jianshe 1st Road, Xiaoshan District, Hangzhou, China; <i>and</i> 6th Floor, North Block, Yinhe Fengyun Building, Gaoxin North Sixth Road, Nanshan District, Shenzhen, China; <i>and</i> Room 510A, Ninggu Building, No. 7940 Humin Road, Minhang District, Shanghai, China; <i>and</i> Microelectronics Research Center, Hangzhou Dianzi University (7th Floor, Science and Technology Museum, Xiasha Campus), China; <i>and</i> Room 1202, Unit 4, Building 2, No. 9, Fenghao East Road, Haidian District, Beijing, China; <i>and</i> 2106 Tower F, Everbright Convention Center, Shanghai, China; <i>and</i> Room 1204, Building A, Skyworth Building, Shenzhen, China. (See alternate address under Taiwan).	All items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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	Info Rank Technologies, Flat/Rm 1021, 10/F Ocean Centre, Harbour City, 5 Canton Road, TST Kowloon, Hong Kong, China.	All items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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	Kindroid, a.k.a., the following two aliases: —Jinzhao Network Technology; <i>and</i> —Shanghai Jinzhou Technology. Room 802, Building 5, No. 3000 Longdong Avenue, Pudong New Area, Shanghai, China.	All items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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	Kuang-Chi Group; a.k.a. the following one alias: —Shenzhen Guangqi Group. Software Building, No. 9, Gaoxinzhong Road, Nanshan District, Shenzhen, 518057, China.	All items subject to the EAR. (See §744.11 of the EAR).	Case-by-case review for items necessary to detect, identify and treat infectious disease; Presumption of denial for all other items subject to the EAR.	85 FR 83420, 12/22/20. 86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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	Kyland Technology Co., Ltd., a.k.a., the following three aliases: —Dongtu Technology; —Beijing Dongtu Technology; <i>and</i> —Beijing Yibeite Technology. Floor 9–15, Building 2, Xishanhui, Shixing Street, Shijingshan District, Beijing, China; <i>and</i> Room 901, 8th Floor, Building 2, No. 30, Shixing Street, Shijingshan District, Beijing, China.	All items subject to the EAR. (See §744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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Country	Entity	License requirement	License review policy	Federal Register citation
	<p>Leon Technology Co., Ltd., a.k.a., the following four aliases:  —Liang Technology;  —Lion Technology;  —Xinjiang Leon Telecom; <i>and</i> Technology  —LAJS.  No. 518 Yanshan Street, Urumqi Economic and Technological Development Zone, Xinjiang Uyghur Autonomous Region, China; <i>and</i> No. 13.14.15A, 30th Floor, Unit 4, Building 1, No. 508, East Second Section of the Second Ring Road, Chenghua District, Chengdu, Sichuan Province, China; <i>and</i>  No. 2–15, Meijing District, Lishui, Tumushuke City, Xinjiang, China; <i>and</i> Room 614 (6th Floor), Office Building, Nanchang Haowei Shopping Mall, No. 1155, Fusheng Road, Xihu District, Nanchang City, Jiangxi Province, China; <i>and</i> No. 491–3, Building 1, Yonyou Industrial Park, Yazhou Bay Science and Technology City, Yazhou District, Sanya City, Hainan Province, China; <i>and</i> Room 111, 1st Floor, Building 8, No. 48, Jiuhan Road, Jianggan District, Hangzhou City, Zhejiang Province, China; <i>and</i> Room 2001, 2002, 2003, 2004, 2005, No. 122, Huangpu Avenue West, Tianhe District, Guangzhou City, China; <i>and</i> No. 17–2–402, Jiaxin Garden, 20 Wenhua Road, Korla City, Bazhou, Xinjiang, China.</p>	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	<p>Shenzhen Cobber Information Technology Co., Ltd., a.k.a., the following six aliases:  —X-Face;  —XFaceTech;  —Shenzhen Kehao Information Technology Co., Ltd.;  —Shenzhen Keba Information Technology;  —Kezhen; <i>and</i>  —Cobber.  6th Floor, Block B, Shenzhen Production and Research Base, Huazhong University of Science and Technology, No. 9 Yuexing 3rd Road, Nanshan District, Shenzhen, Shenzhen, China.</p>	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	<p>Shenzhen Hua'antai Intelligent Technology Co., Ltd., a.k.a., the following alias:  —Vikor.  South of the third floor of U-shaped factory building, Beijing Railway Technology Industrial Park, No. 49 Changjiangpu Road, Henggang Street, Longgang District, Shenzhen, China.</p>	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].

Country	Entity	License requirement	License review policy	Federal Register citation
	Suzhou Keda Technology Co., Ltd., a.k.a, the following one alias: —Kedacom. No. 131, Jinshan Road, High-tech Zone, Suzhou City, Jiangsu Province, China; <i>and</i> No. 131, Jinshan Rd., High-Tech Zone, Suzhou City, Jiangsu Province, China; <i>and</i> 4th Floor, No. 111, Anju North Road, Shuimogou District, Urumqi City, China; <i>and</i> Room 1201, Ruichang Building, No. 136, Youhao South Road, Shayibake District, Urumqi, Xinjiang, China. (See alternate addresses under Netherlands, Pakistan, Singapore, South Korea, and Turkey).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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	Tongfang R.I.A. Co., Ltd., 23F, Block A, Tsinghua Tongfang Technology Building, Wangzhuang Road, Haidian District, Beijing, China; <i>and</i> No. 2002, 20th Floor, Building 4, No. 1, Wangzhuang Road, Haidian District, Beijing, China; <i>and</i> 2000, Building 23, No. 18, Anningzhuang East Road, Qinghe, Haidian District, Beijing, China; <i>and</i> 101, 1st Floor, Building 69, Zone B, Venture Innovation City, No. 15 Fengji Avenue, Yuhuatai District, Nanjing, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	Urumqi Tianyao Weiye Information Technology Service Co., Ltd., 25th Floor, Block A, Chuangzhi Building, Software Park, North Kanas Road, Economic and Technological Development Zone, Urumqi, Xinjiang, China; <i>and</i> 150, 151, 172–176, Building 1, Frontier World Trade Center, No. 566, Yan'an Road, Tianshan District, Urumqi, Xinjiang, China; <i>and</i> No. 147–150, Xinqishi Shopping Center, Sondak Road, Guangming Street, Atsushi City, Xezhou, Xinjiang, China; <i>and</i> Unit 1, Residential Building, Meteorological Bureau, Sanxia West Road, Tuanjie Road, Bogdal Town, Wenquan County, Bozhou, Xinjiang, China; <i>and</i> 67 Renmin East Road, Akto Town, Akto County, Kizilsu Kirgiz Autonomous Prefecture, Xinjiang, China; <i>and</i> Unit 1–2, Building B2, Auto Parts Market, Daxin Auto City, Wensu County, Aksu District, Xinjiang, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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	Wingel Zhang, No. 9 Jiuxianqiao East Rd, Chaoyang, Beijing, China 100015; <i>and</i> A36–2 Huanyuan Haidian, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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	Wuhan Raycus Fiber Laser Technologies Co., Ltd., Building 10, Innovation Base of Hus, Tangxunhu North Road 33 East LA, Wuhan, Hubei, China 430223; <i>and</i> No. 999 Gaoxin Avenue, East Lake Hi-Tech Development Zone, Wuhan, Hubei, China 430223.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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Country	Entity	License requirement	License review policy	Federal Register citation
	Xinjiang Beidou Tongchuang Information Technology Co., Ltd., Room 101–102, Unit 1, Building 12, No. 989, Xinhuan North Road, Urumqi, Xinjiang, China; <i>and</i> Room 217–3, Information Technology Innovation Park, Xinjiang University, No. 499 Northwest Road, Shayibake District, Urumqi, Xinjiang, China; <i>and</i> No. 1901–1902, 19th Floor, 1 Shaanxi Building, Shenka Avenue Headquarters Economic Zone, Kashgar Economic Development Zone, Kashgar, Xinjiang, China; <i>and</i> No. 11, Lane 1, Yongxing Road, Yongning Town, Yanqi County, Bazhou, Xinjiang, China; <i>and</i> No. 33 South Boltala Road, Alashankou, Bozhou, Xinjiang, China; <i>and</i> Room 101, H1 District, Minzhu Middle Road Side Trade Market, Akqi Town, Aletai Habahe County, Xinjiang, China; <i>and</i> Shop 22, Section F, Second Floor, Golden Crown Shopping and Leisure Plaza, No. 658 Tunken East Street, Tumushuke City, Xinjiang, China; <i>and</i> North Side of Xingfu West Road, Jinghe County, Bozhou, Xinjiang, China; <i>and</i> 1st Floor of Building No. 7, Building No. 4, Building No. 11, Gongyuan Street, Yining City, Yili Prefecture, Xinjiang, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	Xinjiang Lianhai Chuangzhi Information Technology Co., Ltd., a.k.a., the following alias: —Xinjiang Lianhai Chuangzhi Xinxi Keji Youxian Gongs. Room 908–5, Floor 9, Shumagang Tower, No. 258 Gaoxin Street, High-Tech Industrial Zone (New City), Urumqi, Xinjiang, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	Xinjiang Sailing Information Technology Co., Ltd., a.k.a., the following two aliases: —Xi Ling Information; <i>and</i> —Xinjiang Xiling Information Technology 10th Floor, Dacheng International Building, No. 358 Beijing South Road, High-tech Zone (New City), Urumqi, Xinjiang, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].

Country	Entity	License requirement	License review policy	Federal Register citation
	Xinjiang Tangli Technology Co., Ltd., Room 601, Leon Technology R&D Service Center, Building 1, No. 518, Yanshan Street, Urumqi Economic and Technological Development Zone, Xinjiang, China.	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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IRAN .....	Payam Nabavi, Unit 2, 2 Golriz Ave, Qaem Maqam Farahani Hafte-e Tir Sq, Tehran, Iran; <i>and</i> Unit 4, 157 South Mofatteh St., Hafte-Tir, Tehran, Iran.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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	Sina Biomedical Chemistry Company, a.k.a., the following two aliases: —Shimi Tebe Sina; <i>and</i> —SBMC. Unit 2, 2 Golriz Ave, Qaem Maqam Farahani Hafte-e Tir Sq, Tehran, Iran; <i>and</i> Unit 4, 157 South Mofatteh St., Hafte-Tir, Tehran, Iran.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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LEBANON .....	Karim Daadaa, a.k.a., the following one alias: —Karim Hamdi Mohd El Daadaa. Corniche El-Mazraa, Rihani Center, Arab Bank Bldg, 6th Floor, Office #1, Beirut, Lebanon; <i>and</i> Anwar Building, 9th Floor, Salim Salam Blvd & Strt Burj Abi Haidar, Beirut, Lebanon. (See alternate address under Canada).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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	Modern Agropharmaceuticals & Trade Establishment, Corniche El-Mazraa, Rihani Center —Arab Bank Bldg 6th Floor, Office #1, Beirut, Lebanon; <i>and</i> Anwar Building, 9th Floor, Salim Salam Blvd & Strt Burj Abi Haidar, Beirut, Lebanon. (See alternate address under Canada).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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NETHERLANDS	*	*	*	*

Country	Entity	License requirement	License review policy	Federal Register citation
	Suzhou Keda Technology Co., Ltd., a.k.a, the following alias: —Kedacom. Groenhof 344, Amstelveen, 1186GK, The Netherlands. (See alternate addresses under China, Pakistan, Singapore, South Korea, and Turkey).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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PAKISTAN .....	Suzhou Keda Technology Co., Ltd., a.k.a, the following one alias: —Kedacom. 4/A1, Plot # 4E-II, 6th Jami Commercial St., Phase VII, Near Khayabane-Ittehad, DHA, Karachi, Pakistan. (See alternate addresses under China, Netherlands, Singapore, South Korea, and Turkey).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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RUSSIA .....	Andrey Leonidovich Kuznetsov, 69 Udaltsova Street 49, Moscow, Russia.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	Dmitry Alexandrovich Kravchenko, Grizodubovoy Str. 4, bld. 3, apt. 84, Moscow, Russia.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	Margarita Vasilyevna Kuznetsova, Udaltsova 85A 210, Moscow, Russia.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	OOO Teson, a.k.a., the following one alias: —OOO Tecoh. D. 65 Korp. 1, Ul. Profsoyuznaya Moscow, 117342 Russia; and 49 Vyborgskaya Waterfront, Office 703, St. Petersburg, Russia 194044.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	OOO Trade-Component, a.k.a., the following one alias: —Treyd Komponent Tikhvinsky Lane, Building 11, Bldg 2, Room 29 127055 Moscow City, Russia.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
	Radiant Group of Companies, a.k.a., the following three aliases: —Radiant Group; —Radiant Elkom; and —Radiant Electronic Components. D. 65 Korp. 1, Ul. Profsoyuznaya Moscow, 117342 Russia.	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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SINGAPORE ....	Suzhou Keda Technology Co., Ltd., a.k.a, the following alias: Kedacom 1 Tannery Lane One Tat Seng #04-01, Singapore. (See alternate addresses under China, Netherlands, Pakistan, South Korea, and Turkey).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].

Country	Entity	License requirement	License review policy	Federal Register citation
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SOUTH KOREA	Suzhou Keda Technology Co., Ltd., a.k.a, the following alias: —Kedacom. #1802 Daeryung Techno 15th, 401 Simindaero Dongan-Gu, Gyunggi-Do, South Korea. (See alternate addresses under China, Netherlands, Pakistan, Singapore, and Turkey).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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TAIWAN .....	Hangzhou Hualan Microelectronics Co., Ltd., a.k.a, the following five aliases: —Hangzhou Hualan Microelectronique Co., Ltd.; —Hualan Micro; —Sage Microelectronics Corporation; —Sage Micro; <i>and</i> —Hangzhou Huasheng Microelectronics. 8th Floor-3, No. 192 Ruiguang Road, Neihu District, Taipei City, Taiwan. (See alternate addresses under China).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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TURKEY .....	Suzhou Keda Technology Co., Ltd., a.k.a, the following alias: —Kedacom. Mahmut Sevket Pasa Mah, Odesa Bulvari, Okmeydani No. 34, 34000 Sisli/Istanbul, Turkey. (See alternate addresses under China, Netherlands, Pakistan, Singapore, and South Korea).	All items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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UNITED ARAB EMIRATES.	TEM International FZC, a.k.a., the following alias: —TEM. Floor 4, Block B, Entrance No. 2 Business Village, Deira A1 Maktoum Rd, Dubai P.O. Box 183125, U.A.E.	All Items Subject to the EAR.	See § 744.2(d) of the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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UNITED KINGDOM.				



Country	Entity	License requirement	License review policy	Federal Register citation
	China Academy of Electronics and Information Technology, a.k.a., the following two aliases: —CAEIT; <i>and</i> —CETC CAEIT. 3rd Floor, 9 St. Clare Street, London, United Kingdom. (See alternative address under China.)	All items subject to the EAR. (See § 744.11 of the EAR).	Case-by-case review for ECCNs 1A004.c, 1A004.d, 1A995, 1A999.a, 1D003, 2A983, 2D983, and 2E983, and for EAR99 items described in the Note to ECCN 1A995; case-by-case review for items necessary to detect, identify and treat infectious disease; and presumption of denial for all other items subject to the EAR.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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**Supplement No. 6 to Part 744 [Amended]**  
 ■ 3. Supplement No. 6 to part 744 is amended under UNITED ARAB

EMIRATES by removing the entry for “TEM International FZC”.  
 ■ 4. Supplement No. 7 to part 744 is amended under RUSSIA by adding in alphabetical order an entry for “JSC

Kazan Helicopter Plant Repair Service” to read as follows:  
**Supplement No. 7 to Part 744— ‘Military End-User’ (MEU) List**  
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Country	Entity	Federal Register citation
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RUSSIA .....	JSC Kazan Helicopter Plant Repair Service, a.k.a., the following two aliases: —Kazanski Vertoletny Zavod Remservis; <i>and</i> —KVZ Remservis. Ulitsa Tetsevsckaya 14, Kazan, Russia.	86 FR [INSERT FR PAGE NUMBER, 7/12/21].
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**Matthew S. Borman,**  
 Deputy Assistant Secretary for Export Administration.

[FR Doc. 2021-14656 Filed 7-9-21; 8:45 am]  
 BILLING CODE 3510-33-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

**21 CFR Part 1141**

[Docket No. FDA-2019-N-3065]

RIN 0910-A139

**Tobacco Products; Required Warnings for Cigarette Packages and Advertisements; Delayed Effective Date**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Final rule; delay of effective date.

**SUMMARY:** As required by an order issued by the U.S. District Court for the Eastern District of Texas, this action delays the effective date of the final rule (“Tobacco Products; Required Warnings for Cigarette Packages and Advertisements”), which published on March 18, 2020. The new effective date is July 13, 2022.

**DATES:** The effective date of the rule amending 21 CFR part 1141 published at 85 FR 15638, March 18, 2020, delayed at 85 FR 32293, May 29, 2020, and 86 FR 3793, January 15, 2021, is further delayed until July 13, 2022.

**FOR FURTHER INFORMATION CONTACT:** Courtney Smith, Office of Regulations, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD

20993-0002, 1-877-287-1371, email: AskCTPREgulations@fda.hhs.gov.

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of March 18, 2020, the Food and Drug Administration (FDA or Agency) issued a final rule establishing new cigarette health warnings for cigarette packages and advertisements. The final rule implements a provision of the Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111-31) that requires FDA to issue regulations requiring color graphics depicting the negative health consequences of smoking to accompany new textual warning label statements. The Tobacco Control Act amends the Federal Cigarette Labeling and Advertising Act of 1965 (Pub. L. 89-92) to require each cigarette package and advertisement to bear one of the new required warnings. The final rule specifies the 11 new textual warning label statements and accompanying

color graphics. Pursuant to section 201(b) of the Tobacco Control Act, the rule was published with an effective date of June 18, 2021, 15 months after the date of publication of the final rule.

On April 3, 2020, the final rule was challenged in the U.S. District Court for the Eastern District of Texas.<sup>1</sup> On May 8, 2020, the court granted a joint motion to govern proceedings in that case and postpone the effective date of the final rule by 120 days.<sup>2</sup> On December 2, 2020, the court granted a new motion by the plaintiffs to postpone the effective date of the final rule by an additional 90 days.<sup>3</sup> On March 2, 2021, the court granted another motion by the plaintiffs to postpone the effective date of the final rule by an additional 90 days.<sup>4</sup> On May 21, 2021, the court granted another motion by the plaintiffs to postpone the effective date of the final rule by an additional 90 days.<sup>5</sup> The court ordered that the new effective date of the final rule is July 13, 2022. Pursuant to the court order, any obligation to comply with a deadline tied to the effective date is similarly postponed, and those obligations and deadlines are now tied to the postponed effective date.

To the extent that 5 U.S.C. 553 applies to this action, the Agency's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exception in 5 U.S.C. 553(b)(B). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The 90-day postponement of the effective date, until July 13, 2022, is required by court order in accordance with the court's authority to postpone a rule's effective date pending judicial review (5 U.S.C. 705). Seeking prior public comment on this postponement would have been impracticable, as well as contrary to the public interest in the orderly issuance and implementation of regulations.

<sup>1</sup> *R.J. Reynolds Tobacco Co. et al. v. United States Food and Drug Administration et al.*, No. 6:20-cv-00176 (E.D. Tex. filed April 3, 2020).

<sup>2</sup> *R.J. Reynolds Tobacco Co.*, No. 6:20-cv-00176 (E.D. Tex. May 8, 2020) (order granting joint motion and establishing schedule), Doc. No. 33.

<sup>3</sup> *R.J. Reynolds Tobacco Co.*, No. 6:20-cv-00176 (E.D. Tex. December 2, 2020) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 80.

<sup>4</sup> *R.J. Reynolds Tobacco Co.*, No. 6:20-cv-00176 (E.D. Tex. March 2, 2021) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 89.

<sup>5</sup> *R.J. Reynolds Tobacco Co.*, No. 6:20-cv-00176 (E.D. Tex. May 21, 2021) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 91.

Dated: June 24, 2021.

**Janet Woodcock**,

*Acting Commissioner of Food and Drugs.*

Dated: July 06, 2021.

**Xavier Becerra**,

*Secretary, Department of Health and Human Services.*

[FR Doc. 2021-14678 Filed 7-9-21; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF EDUCATION

### 34 CFR Chapter II

[Docket ID ED-2021-OESE-0036]

#### Final Priorities and Requirement— Innovative Approaches to Literacy

**AGENCY:** Office of Elementary and Secondary Education (OESE), Department of Education.

**ACTION:** Final priorities and requirement.

**SUMMARY:** The Department of Education (Department) announces four priorities and one requirement under the Innovative Approaches to Literacy (IAL) program, Assistance Listing Number 84.215G. The Department may use one or more of these priorities and requirement for competitions in fiscal year (FY) 2021 and later years.

**DATES:** These priorities are effective August 11, 2021.

**FOR FURTHER INFORMATION CONTACT:** Simon Earle, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E254, Washington, DC 20202-6450. Telephone: (202) 453-7923. Email: [Simon.Earle@ed.gov](mailto:Simon.Earle@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

#### SUPPLEMENTARY INFORMATION:

**Purpose of Program:** The IAL program supports high-quality programs designed to develop and improve literacy skills for children and students from birth through 12th grade in high-need local educational agencies (LEAs) and schools. The Department intends to promote innovative literacy programs that support the development of literacy skills in low-income communities, including programs that: (1) Develop and enhance effective school library programs, which may include providing professional development for school librarians, books, and up-to-date materials to high-need schools; (2) provide early literacy services, including pediatric literacy programs through which, during well-child visits,

medical providers trained in research-based methods of early language and literacy promotion provide developmentally appropriate books and recommendations to parents to encourage them to read aloud to their children starting in infancy; and (3) provide high-quality books on a regular basis to children and adolescents from low-income communities to increase reading motivation, performance, and frequency.

**Program Authority:** 20 U.S.C. 6646.

We published a notice of proposed priorities and requirement (NPP) for this program in the **Federal Register** on April 6, 2021 (86 FR 17757). The priorities included in the NPP were: Proposed Priority 1—Projects, Carried Out in Coordination with School Libraries, for Book Distribution, Childhood Literacy Activities, or Both; Proposed Priority 2—Providing a Learning Environment That Is Racially, Ethnically, Culturally, Disability and Linguistically Responsive and Inclusive, Supportive, and Identity-safe; Proposed Priority 3—Supporting Students in Urban Areas; and Proposed Priority 4—Supporting Students from Low-Income Families. The requirement included in the NPP set forth eligibility criteria. The NPP contained background information and our reasons for proposing the particular priorities and requirement.

There are differences between Proposed Priority 2 and Final Priority 2 as discussed in the *Analysis of Comments and Changes* section elsewhere in this notice. Except for minor editorial and technical revisions, there are no significant changes to Priorities 1, 3, and 4 and the requirement from the NPP.

**Public Comment:** In response to our invitation in the NPP, 28 parties submitted comments, which, in total, addressed all four of the proposed priorities and requirement. Two comments were not relevant to the proposed priorities and are not included in the discussions below. We group major issues according to subject.

Generally, we do not address technical and other minor changes, or suggested changes the law does not authorize us to make under the applicable statutory authority. In addition, we do not address the two comments that were not directly related to the NPP.

**Analysis of Comments and Changes:** An analysis of the comments and of any changes in the priorities and requirement since publication of the NPP follows.

**Comment:** One commenter applauded the Department for supporting school library programs during the COVID-19

pandemic, particularly when libraries have been closed. The commenter remarked that library collections urgently need updating on a regular basis to provide resources for our changing cultural needs. The commenter believed professional development for librarians will help ensure that students have the necessary literacy skills and tools to make accurate independent virtual learning choices. Another commenter, in acknowledging the Department's recognition of the importance of coordinating with school libraries to carry out grant activities, encouraged the Department also to promote access to diverse literary material. The commenter believed that every student deserves a school library that incorporates diversity.

*Discussion:* The Department agrees with the commenter that many school libraries need updated collections, including ensuring that available materials reflect the diversity of students, and that professional development for school librarians can be a key lever in increasing student literacy. For that reason, we are modifying Priority 2 to clarify that, as under Priority 1, an applicant implementing a program under the priority must coordinate with school libraries.

*Changes:* We have clarified in Priority 2 that an applicant must coordinate with school libraries.

*Comment:* Five commenters provided remarks regarding Proposed Priority 1, Projects, Carried Out in Coordination with School Libraries, for Book Distribution, Childhood Literacy Activities, or Both. Four of the commenters offered support, recognizing the importance of school libraries, childhood literacy, and book distribution. One commenter remarked that IAL funding is best used by providing tangible items, such as eReaders, to LEAs serving children from low-income households. A commenter, who also supported the proposed priority, encouraged the Department to promote diversity of literary materials and evaluate proposed projects' success in ensuring diversity.

*Discussion:* We appreciate the commenters' support for Proposed Priority 1. We think applicants for IAL funding are best positioned, in coordination with school libraries, to determine the needs of their students and acquire appropriate materials in response to those needs, which may include books and literacy-focused technology. We also agree that it is important to evaluate projects' success in ensuring diversity and students benefit from access to diverse literary

materials. Priority 2 highlights the Department's commitment to diverse learning environments.

*Changes:* None.

*Comment:* Eight commenters provided remarks for Proposed Priority 2, Providing a Learning Environment That Is Racially, Ethnically, Culturally, Disability and Linguistically Responsive and Inclusive, Supportive, and Identity-safe, and each offered their support for learning environments that are inclusive, supportive, and identity-safe. Commenters stated that identity-safe learning environments will be beneficial for students from diverse backgrounds, low-income households, and urban areas. A commenter also urged the Department to prioritize funding for projects that create inclusive environments via ethnic course studies tailored to each unique student population.

*Discussion:* We agree that learning environments should be responsive, inclusive, supportive, and identity-safe, as reflected in Priority 2. With regard to prioritizing funding for projects that focus on ethnic studies or creating ethnic studies courses, we think Proposed Priority 2 provides the flexibility and autonomy for applicants to be innovative in creating responsive and inclusive learning environments, including through changes in curricula, library collections, and professional development.

*Changes:* None.

*Comment:* Sixteen commenters provided remarks regarding Proposed Priority 3, Supporting Students in Urban Areas. Three commenters supported the proposed priority, noting that many urban schools are under-resourced; they expressed the need for certified librarians in urban schools and agreed that NCES locale codes are appropriate indicators of urbanicity. Eleven commenters asserted that studies show students in rural areas face greater educational challenges than those in urban areas, citing data indicating that rural students are impacted more adversely in the areas of childhood poverty, internet access, college enrollment, and mental health care.

One commenter stated that NCES locale codes are not the most appropriate indicator of urbanicity, for three reasons: First, school enrollment often does not match the surrounding population; second, relying on NCES locale codes fails to achieve the goals of this proposed priority and the average wealth of families in particular schools should be a factor; and third, an area generally is not defined by its population and population density. The commenter contended that the level of

infrastructure, presence of public transit, and types of jobs may better define a geographical area for the purpose of the priority.

Another commenter suggested the use of NCES locale codes restricts IAL funding to LEAs with an urban locale code of 11, 12, or 13. The commenter contended the use of the locale codes results in an under-inclusive policy that limits funding to urban areas even though 70 percent of the United States population lives in suburban and rural areas. The commenter suggested the Department focus on identifying LEAs with the lowest literacy and math achievement levels, which may not be in urban settings.

*Discussion:* We appreciate the three commenters' support for Proposed Priority 3 and agree that students in rural areas face educational challenges. To that end, the Explanatory Statement for Division H of the Consolidated Appropriations Act, 2021 (Pub. L. 116-260) (2021 Appropriations Explanatory Statement) directs the Department to ensure that grants are distributed among eligible entities that will serve geographically diverse areas, including both rural areas and underserved communities in urban school districts, in which students from low-income families make up at least 50 percent of enrollment. Because the Department previously established a priority to serve rural communities, this new priority is intended to complement—not replace—the rural priority so the program can prioritize both rural and urban areas, as directed by the 2021 Appropriations Explanatory Statement from Congress.

We appreciate the commenter's suggestions regarding additional indicators to be used in addition to NCES locale codes when identifying urban areas and agree that population is not the only characteristic associated with urbanicity. However, the use of locale codes is a long-accepted practice in distinguishing among applicants and ensuring geographic diversity in competitive grant programs, and we decline to augment locale codes as suggested by the commenter.

We disagree with the commenter who asserted that the use of NCES locale codes restricts funding to LEAs assigned an urban locale code. As mentioned above, the 2021 Appropriations Explanatory Statement directs the Department to ensure that grants are distributed among eligible entities that will serve geographically diverse areas, including rural areas and underserved communities in urban school districts, in which students from low-income families make up at least 50 percent of

enrollment. Moreover, the use of urban or rural priorities would not preclude applications from, or awards to, eligible applicants proposing to serve non-urban and non-rural areas.

*Changes:* None.

*Comment:* Fourteen commenters offered remarks regarding Proposed Priority 4, Supporting Students from Low-Income Families. Of the three commenters expressing support for the proposed priority, one recommended that eligibility for participation in Part A of Title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA), be used as a secondary tool to demonstrate that the proposed project would serve students from low-income households.

Ten commenters suggested this proposed priority signals the Department's intent to no longer prioritize rural LEAs and high-need communities. Another commenter recommended that the Department reserve a substantial portion of available funds under this program for LEAs serving 50 percent or more of students from families with an income below the poverty line regardless of whether they apply for an IAL grant.

*Discussion:* The purpose of the IAL program is to develop and improve literacy skills for students in high-need LEAs and schools. Priority 4 addresses supporting students from low-income families and does not in any way prioritize students in urban communities over students in rural communities.

The Department does not agree that Title I eligibility would be an appropriate measure of poverty for the IAL program because the poverty thresholds applicable to Title I are not consistent with the statutory requirements of the IAL program. More specifically, only an LEA in which 20 percent or more of the students served by the LEA are from families with an income below the poverty line (as defined in section 8101(41) of the ESEA) is eligible for an IAL award; the LEA poverty thresholds for receiving Title I funds range from just 2 percent for Basic Grants to a maximum of 15 percent for Concentration Grants.

Additionally, as stated previously, the 2021 Appropriations Explanatory Statement directs the Department to ensure that grants are distributed among eligible entities that will serve geographically diverse areas, including rural areas and underserved communities in urban school districts, in which students from low-income families make up at least 50 percent of enrollment. Finally, the statute requires that IAL awards be made through a

competitive process rather than by formula to all eligible entities.

*Changes:* None.

*Comment:* Two commenters supported the proposed requirement. One of these commenters noted that the use of the Small Area Income and Poverty Estimates (SAIPE) data may provide better opportunities for economically challenged urban LEAs to increase school library capabilities. The other commenter stated the proposed requirement reflects the intent of the IAL program and its language reflects the definitions in 20 U.S.C. 6646.

*Discussion:* We agree the proposed requirement is essential for supporting school libraries and literacy, particularly for LEAs in which 20 percent or more of students served are from families with an income below the poverty line (as defined in section 8101(41) of the ESEA).

*Changes:* None.

*Final Priorities:*

*Priority 1—Projects, Carried Out in Coordination With School Libraries, for Book Distribution, Childhood Literacy Activities, or Both.*

Projects that propose to coordinate with school libraries to carry out grant activities, such as book distributions, childhood literacy activities, or both, for the proposed project.

*Priority 2—Projects, Carried Out in Coordination With School Libraries, That Provide a Learning Environment That Is Racially, Ethnically, Culturally, Disability Status and Linguistically Responsive and Inclusive, Supportive, and Identity-Safe.*

Projects coordinated with school libraries and designed to be responsive to racial, ethnic, cultural, disability, and linguistic differences in a manner that creates inclusive, supportive, and identity-safe learning environments.

In its application, the applicant must—

(a) Describe the types of racially, ethnically, culturally, disability status, and linguistically responsive program design elements that the applicant proposes to include in its project;

(b) Explain how its program design will create inclusive, supportive, and identity-safe environments; and

(c) Describe how its project will be carried out in coordination with school libraries.

*Priority 3—Supporting Students in Urban Areas.*

Projects that are designed to serve one or more urban LEAs. In its application, an applicant must demonstrate one of the following:

(a) The applicant is an eligible LEA or consortium of eligible LEAs with a locale code of 11, 12, or 13.

(b) The applicant is a national nonprofit that proposes to serve schools within eligible LEAs all of which have a locale code of 11, 12, or 13.

*Note:* Applicants are encouraged to retrieve locale codes from the National Center for Education Statistics (NCES) School District search tool (<https://nces.ed.gov/ccd/districtsearch/>), searching by LEA.

*Priority 4—Supporting Students From Low-Income Families.*

Projects that serve LEAs serving students from low-income families. In its application, an applicant must demonstrate, based on Small Area Income and Poverty Estimates (SAIPE) data from the U.S. Census Bureau or, for an LEA for which SAIPE data are not available, the same State-derived equivalent of SAIPE data that the State uses to make allocations under part A of title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA), one of the following:

(a) At least 25 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

(b) At least 30 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

(c) At least 35 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

(d) At least 40 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

(e) At least 45 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

(f) At least 50 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line.

*Types of Priorities:*

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the **Federal Register**. The effect of each type of priority follows:

*Absolute priority:* Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

*Competitive preference priority:* Under a competitive preference priority,

we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

**Invitational priority:** Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

**Final Requirement:**

**Requirement:**

The Department establishes the following requirement for this program. We may apply this requirement in any year in which this program is in effect.

**Eligible Applicants:** To be considered for an award under this competition, an applicant must be one or more of the following:

(1) An LEA in which 20 percent or more of the students served by the LEA are from families with an income below the poverty line (as defined in section 8101(41) of the ESEA).

(2) A consortium of such LEAs described in paragraph (1) above.

(3) The Bureau of Indian Education.

(4) An eligible national nonprofit organization (as defined in section 2226(b)(2) of the ESEA) that serves children and students within the attendance boundaries of one or more eligible LEAs.

**Note:** Under the definition of “poverty line” in section 8101(41) of the ESEA, the determination of the percentage of students served by an LEA from families with an income below the poverty line is based on the U.S. Census Bureau’s SAIPE data.

An entity that meets the definition of an LEA in section 8101(30) of the ESEA and that serves multiple LEAs, such as a county office of education, an education service agency, or regional service education agency, must provide the most recent SAIPE data for each of the individual LEAs it serves. To determine whether the entity meets the poverty threshold, the Department will derive the entity’s poverty rate by aggregating the number of students from families below the poverty line (as provided in SAIPE data) in each of the LEAs the entity serves and dividing it by the total number of students (as provided in SAIPE data) in all of the LEAs the entity serves.

An LEA for which SAIPE data are not available, such as a non-geographic charter school, must provide a determination by the State educational

agency (SEA) that 20 percent or more of the students aged 5–17 in the LEA are from families with incomes below the poverty line based on the same State-derived poverty data the SEA used to determine the LEA’s allocation under part A of title I of the ESEA.

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

**Note:** This document does *not* solicit applications. In any year in which we choose to use one or more of these priorities or the requirement, we invite applications through a notice in the **Federal Register**.

**Executive Orders 12866 and 13563**

**Regulatory Impact Analysis**

Under Executive Order 12866, the Office of Management and Budget (OMB) must determine whether this regulatory action is “significant” and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action likely to result in a rule that may—

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an “economically significant” rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs

(recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes.”

We are issuing these final priorities and this final requirement only on a reasoned determination that their benefits justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department’s programs and activities.

**Potential Costs and Benefits**

The Department believes that this regulatory action will not impose significant costs on eligible entities,

whose participation in our programs is voluntary, and costs can generally be covered with grant funds. As a result, the final priorities and requirement will not impose any particular burden except when an entity voluntarily elects to apply for a grant. The benefits of the priorities and requirement will outweigh any associated costs because they will help ensure that the Department's discretionary grant programs select high-quality applicants to implement activities that are designed to address innovative approaches to literacy. In addition, these priorities and requirement are specifically targeted to prioritize applicants from underserved areas and reduce application burden on such applicants.

### Regulatory Flexibility Act Certification

The Secretary certifies that this regulatory action will not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

Of the impacts we estimate accruing to grantees or eligible entities, all are voluntary and related mostly to an increase in the number of applications prepared and submitted annually for competitive grant competitions. Therefore, we do not believe that the final priorities and requirement will significantly impact small entities beyond the potential for increasing the likelihood of their applying for, and receiving, competitive grants from the Department.

### Paperwork Reduction Act

The final priorities and requirement contain information collection requirements that are approved by OMB under OMB control number 1894-0006.

*Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for

coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

*Accessible Format:* On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

*Electronic Access to This Document:* The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

#### Ian Rosenblum,

*Deputy Assistant Secretary for Policy and Programs Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education.*

[FR Doc. 2021-14758 Filed 7-9-21; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 210210-0018; RTID 0648-XB226]

### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Central Regulatory Area of the Gulf of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is prohibiting retention of Pacific cod by catcher/processors using trawl gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary because the 2021 total allowable catch of Pacific cod allocated to catcher/processors using trawl gear in the Central Regulatory Area of the GOA has been reached.

**DATES:** Effective 1200 hours, Alaska local time (A.l.t.), July 8, 2021, through 2400 hours, A.l.t., December 31, 2021.

**FOR FURTHER INFORMATION CONTACT:** Obren Davis, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2021 total allowable catch (TAC) of Pacific cod allocated to catcher/processors using trawl gear in the Central Regulatory Area of the GOA is 426 metric tons (mt) as established by the final 2021 and 2022 harvest specifications for groundfish of the GOA (86 FR 10184, February 19, 2021).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2021 TAC of Pacific cod allocated to catcher/processors using trawl gear in the Central Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that Pacific cod caught by catcher/processors using trawl gear in the Central Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(a)(2).

#### Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required by 50 CFR part 679, which was issued pursuant to section 304(b), and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be impracticable and contrary to the public interest, as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of Pacific cod by catcher/processors using trawl gear in the

Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 7, 2021.

The AA also finds good cause to waive the 30-day delay in the effective

date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: July 7, 2021.

**Jennifer M. Wallace,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2021-14805 Filed 7-8-21; 4:15 pm]

**BILLING CODE 3510-22-P**

# Proposed Rules

Federal Register

Vol. 86, No. 130

Monday, July 12, 2021

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2021-0559; Project Identifier MCAI-2021-00079-R]

RIN 2120-AA64

#### Airworthiness Directives; Airbus Helicopters

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** The FAA proposes to supersede airworthiness directive (AD) 2020-24-03 which applies to certain Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350D, AS355E, AS355F, AS355F1, and AS355F2 helicopters. AD 2020-24-03 requires testing the UP/DOWN switches of a certain part-numbered DUNLOP cyclic stick grip, installing a placard, and revising the existing Rotorcraft Flight Manual (RFM) for your helicopter, or removing the DUNLOP cyclic stick grip. Since the FAA issued AD 2020-24-03, Airbus Helicopters developed a modification procedure for the electrical wiring of the hoist control of the DUNLOP cyclic stick grip. This proposed AD would retain some requirements of AD 2020-24-03 and would also require incorporating the new modification, and removing the placard and the RFM amendment installed previously as required by AD 2020-24-03. The proposed additional actions would be required as specified in a European Union Aviation Safety Agency (EASA) AD, which is proposed for incorporation by reference (IBR). The FAA is proposing this AD to address the unsafe condition on these products.

**DATES:** The FAA must receive comments on this proposed AD by August 26, 2021.

**ADDRESSES:** You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <https://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* (202) 493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For material that is proposed for IBR in this AD, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this IBR material on the EASA website at <https://ad.easa.europa.eu>. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N-321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222-5110. It is also available in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0559.

#### Examining the AD Docket

You may examine the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA-2021-0559; or in person at Docket Operations between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, any comments received, and other information. The street address for Docket Operations is listed above. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Daniel Poblete, Aerospace Engineer, Systems & Equipment Section, Los Angeles ACO Branch, Compliance & Airworthiness Division, 3960 Paramount Blvd., Lakewood, CA 90712; telephone (562) 627-5335; email: [daniel.d.poblete@faa.gov](mailto:daniel.d.poblete@faa.gov).

#### SUPPLEMENTARY INFORMATION:

#### Comments Invited

The FAA invites you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under **ADDRESSES**. Include "Docket No. FAA-2021-0559; Project Identifier MCAI-2021-00079-R" at the beginning of your comments. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. The FAA will consider all comments received by the closing date and may amend this proposal because of those comments.

Except for Confidential Business Information (CBI) as described in the following paragraph, and other information as described in 14 CFR 11.35, the FAA will post all comments received, without change, to <https://www.regulations.gov>, including any personal information you provide. The agency will also post a report summarizing each substantive verbal contact received about this proposal.

#### Confidential Business Information

CBI is commercial or financial information that is both customarily and actually treated as private by its owner. Under the Freedom of Information Act (FOIA) (5 U.S.C. 552), CBI is exempt from public disclosure. If your comments responsive to this NPRM contain commercial or financial information that is customarily treated as private, that you actually treat as private, and that is relevant or responsive to this NPRM, it is important that you clearly designate the submitted comments as CBI. Please mark each page of your submission containing CBI as "PROPIN." The FAA will treat such marked submissions as confidential under the FOIA, and they will not be placed in the public docket of this NPRM. Submissions containing CBI should be sent to Daniel Poblete, Aerospace Engineer, Systems & Equipment Section, Los Angeles ACO Branch, Compliance & Airworthiness Division, 3960 Paramount Blvd., Lakewood, CA 90712; telephone (562) 627-5335; email: [daniel.d.poblete@faa.gov](mailto:daniel.d.poblete@faa.gov). Any commentary that the FAA receives that is not specifically designated as CBI will be placed in the public docket for this rulemaking.



## Background

The FAA issued AD 2020–24–03, Amendment 39–21333 (85 FR 76955, December 1, 2020), (AD 2020–24–03), which applies to Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350D, AS355E, AS355F, AS355F1, and AS355F2 helicopters with DUNLOP cyclic stick grip manufacturer part number (MP/N) AC66444 with UP/DOWN switches for rescue hoist control installed. AD 2020–24–03 requires accomplishing a ground test of the UP/DOWN switches of DUNLOP cyclic stick grip for proper function before each hoist operation. If there is any uncommanded hoist action, AD 2020–24–03 requires removing the DUNLOP cyclic stick grip from service. If DUNLOP cyclic stick grip MP/N AC66444 is installed, before the next operation, AD 2020–24–03 also requires installing a placard and revising the existing RFM for your helicopter to prohibit the use of the UP/DOWN switches of the DUNLOP cyclic stick grip. Alternatively, AD 2020–24–03 allows removing DUNLOP cyclic stick grip MP/N AC66444, however before the DUNLOP cyclic stick grip is re-installed, AD 2020–24–03 requires accomplishing a ground test of the UP/DOWN switches and installing the placard and revising the existing RFM for your helicopter. AD 2020–24–03 also prohibits installing an affected DUNLOP cyclic stick grip unless the ground testing of the UP/DOWN switches has been accomplished, the placard has been installed, and the existing RFM for your helicopter has been revised. The FAA issued AD 2020–24–03 to prevent an inadvertent activation of the rescue hoist cable cutter and consequent detachment of an external load or person from the helicopter hoist. This unsafe condition could result in personal injury or injury to persons on the ground.

## Actions Since AD 2020–24–03 Was Issued

Since the FAA issued AD 2020–24–03, Airbus Helicopters developed a modification (MOD) MC20096 and issued service information that provides instructions for modifying the electrical wiring of the hoist control on DUNLOP cyclic stick grips.

EASA, which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2021–0023, dated January 19, 2021 (EASA AD 2021–0023) to correct an unsafe condition for Airbus Helicopters Model AS 350 and AS 355 helicopters.

This proposed AD was prompted by Airbus Helicopters developing MOD

MC20096 and Airbus Helicopters issuing service information for performing this modification on the DUNLOP cyclic stick. The FAA is proposing this AD to address inadvertent activation of the rescue hoist cable cutter function and consequent detachment of an external load or person from the helicopter hoist, possibly resulting in personal injury, or injury to persons on the ground. See EASA AD 2021–0023 for additional background information.

## Related Service Information Under 1 CFR Part 51

EASA AD 2021–0023 specifies procedures for installing the placard and revising the Flight Manual to prohibit the use of the UP/DOWN switches of the DUNLOP cyclic stick MP/N AC66444. EASA AD 2021–0023 also specifies procedures for modifying the electrical wiring of the DUNLOP cyclic stick and removing both the placard and RFM amendment previously installed.

This material is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

## FAA's Determination and Requirements of This Proposed AD

These helicopters have been approved by the aviation authority of another country, and are approved for operation in the United States. Pursuant to the bilateral agreement with the State of Design Authority, the FAA has been notified of the unsafe condition described in the EASA AD referenced above. The FAA is proposing this AD after evaluating all the relevant information and determining the unsafe condition described previously is likely to exist or develop in other products of these same type designs.

## Explanation of Retained Requirements

Although this proposed AD does not explicitly restate the requirements of AD 2020–24–03, this proposed AD would retain certain requirements of AD 2020–24–03. Those requirements are referenced in EASA AD 2021–0023, which, in turn, is referenced in paragraph (g) of this proposed AD.

## Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in EASA AD 2021–0023 described previously, as incorporated by reference, except for any differences identified as exceptions in the regulatory text of this proposed AD and except as discussed under “Differences

Between this Proposed AD and EASA AD 2021–0023.”

## Explanation of Required Compliance Information

In the FAA's ongoing efforts to improve the efficiency of the AD process, the FAA developed a process to use certain civil aviation authority (CAA) ADs as the primary source of information for compliance with requirements for corresponding FAA ADs. The FAA has been coordinating this process with manufacturers and CAAs. As a result, EASA AD 2021–0023 will be incorporated by reference in the FAA final rule. This proposed AD would, therefore, require compliance with EASA AD 2021–0023 in its entirety, through that incorporation, except for any differences identified as exceptions in the regulatory text of this proposed AD. Using common terms that are the same as the heading of a particular section in EASA AD 2021–0023 does not mean that operators need comply only with that section. For example, where the AD requirement refers to “all required actions and compliance times,” compliance with this AD requirement is not limited to the section titled “Required Action(s) and Compliance Time(s)” in EASA AD 2021–0023. Service information specified in EASA AD 2021–0023 that is required for compliance with it will be available at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0559 after the FAA final rule is published.

## Differences Between This Proposed AD and EASA AD 2021–0023

For helicopters with DUNLOP cyclic stick grip MP/N AC66444 with UP/DOWN switches for rescue hoist control installed, this proposed AD would require accomplishing a ground test of the UP/DOWN switches for proper function before each hoist operation, whereas the EASA AD does not. Where EASA AD 2021–0023 refers to its effective date or the effective date of EASA Emergency AD 2020–0217–E, dated October 8, 2020, this proposed AD would require using the effective date of this AD. Where the service information referenced in EASA AD 2021–0023 specifies “work must be performed on the helicopter by the operator,” this proposed AD would require that the work be accomplished by a mechanic that meets the requirements of 14 CFR part 65 subpart D. Where the service information referenced in EASA AD 2021–0023 specifies to discard certain placards and Flight Manual pages (that were required by EASA AD 2020–0217–E), this proposed AD would require

removing them instead. EASA AD 2021–0023 requires operators to “inform all flight crews” and thereafter to “operate the helicopter accordingly.” However, this proposed AD would not require those actions. Where paragraph (4) of EASA AD 2020–0023 allows modifying a Group 2 helicopter into a Group 1 helicopter, this proposed AD would also require accomplishing the requirements of paragraph (g)(1) of this AD. Finally, the service information referenced in EASA AD 2021–0023 requires reporting certain information, whereas this proposed AD would not.

#### Costs of Compliance

The FAA estimates that this proposed AD would affect 390 helicopters of U.S. Registry. The FAA estimates that operators may incur the following costs in order to comply with this proposed AD. Labor costs are estimated at \$85 per work-hour.

Accomplishing a ground test of the UP/DOWN switches for proper function takes a minimal amount of time for a nominal cost. Replacing a DUNLOP cyclic stick grip, if required, takes about 2.5 work-hours and parts cost about \$2,500 for an estimated cost of \$2,713. Installing the placard and revising the existing RFM for your helicopter would take about 0.5 work-hour for an estimated cost of \$43 per helicopter and \$16,770 for the U.S. fleet.

Modifying the electrical wiring of the DUNLOP cyclic stick would take up to 4 work-hours and parts would cost \$2,147 for an estimated cost of up to \$2,487 per helicopter and \$969,930 for the U.S. fleet. Removing the placard and revising the existing RFM for your helicopter would take about 0.5 work-hour for an estimated cost of \$43 per helicopter and \$16,770 for the U.S. fleet.

#### Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA’s authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency’s authority.

The FAA is issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: General requirements. Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or

develop on products identified in this rulemaking action.

#### Regulatory Findings

The FAA determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

- (1) Is not a “significant regulatory action” under Executive Order 12866,
- (2) Would not affect intrastate aviation in Alaska, and
- (3) Would not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

#### The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

#### PART 39—AIRWORTHINESS DIRECTIVES

- 1. The authority citation for part 39 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701.

#### § 39.13 [Amended]

- 2. The FAA amends § 39.13 by:
  - a. Removing Airworthiness Directive (AD) 2020–24–03, Amendment 39–21333 (85 FR 76955, December 1, 2020); and
  - b. Adding the following new AD:

**Airbus Helicopters:** Docket No. FAA–2021–0559; Project Identifier MCAI–2021–00079–R.

#### (a) Comments Due Date

The FAA must receive comments on this airworthiness directive (AD) by August 26, 2021.

#### (b) Affected ADs

This AD replaces AD 2020–24–03, Amendment 39–21333 (85 FR 76955, December 1, 2020) (AD 2020–24–03).

#### (c) Applicability

This AD applies to Airbus Helicopters Model AS350B, AS350BA, AS350B1, AS350B2, AS350D, AS355E, AS355F, AS355F1, and AS355F2 helicopters, certificated in any category, as identified in

European Union Aviation Safety Agency (EASA) AD 2021–0023, dated January 19, 2021 (EASA AD 2021–0023).

#### (d) Subject

Joint Aircraft System Component (JASC) Code 2500, Cabin Equipment/Furnishings.

#### (e) Unsafe Condition

This AD was prompted by the development of a modification of the electrical wiring of the hoist control on the DUNLOP cyclic stick grip. The FAA is issuing this AD to prevent inadvertent activation of the rescue hoist cable cutter and consequent detachment of an external load or person from the helicopter hoist. This condition could result in personal injury or injury to persons on the ground.

#### (f) Compliance

Comply with this AD within the compliance times specified, unless already done.

#### (g) Requirements

(1) For helicopters with DUNLOP cyclic stick grip manufacturer part number AC66444 with UP/DOWN switches for rescue hoist control installed, before each hoist operation after December 16, 2020 (the effective date of AD 2020–24–03), accomplish a ground test of the UP/DOWN switches for proper function. If there is any uncommanded hoist action, before further flight, remove the DUNLOP cyclic stick grip from service. Accomplishing the modification in paragraph (2) of EASA AD 2021–0023 constitutes terminating action for the requirements of this paragraph.

(2) Except as specified in paragraph (h) of this AD: Comply with all required actions and compliance times specified in, and in accordance with, EASA AD 2021–0023.

#### (h) Exceptions to EASA AD 2021–0023

(1) Where EASA AD 2021–0023 refers to October 8, 2020 (the effective date of EASA Emergency AD 2020–0217–E, dated October 6, 2020 (EASA AD 2020–0217–E)), this AD requires using the effective date of this AD.

(2) Where the service information referenced in paragraph (1) of EASA AD 2020–0023 specifies that the “work must be performed on the helicopter by the operator,” this AD requires that the work be accomplished by a mechanic that meets the requirements of 14 CFR part 65 subpart D.

(3) Where EASA AD 2021–0023 refers to its effective date, this AD requires using the effective date of this AD.

(4) Where EASA AD 2021–0023 refers to flight hours (FH), this AD requires using hours time-in-service.

(5) Where the service information referenced in EASA AD 2021–0023 specifies to discard certain placards and Flight Manual pages (that were required by EASA AD 2020–0217–E), this AD requires removing them.

(6) Where paragraph (3) of EASA AD 2021–0023 specifies to “inform all flight crews and, thereafter, operate the helicopter accordingly,” this AD does not require those actions.

(7) Where paragraph (4) of EASA AD 2020–0023 allows modifying a Group 2 helicopter into a Group 1 helicopter, this AD also

requires accomplishing the requirements of paragraph (g)(1) of this AD.

(8) The “Remarks” section of EASA AD 2021–0023 does not apply to this AD.

**(i) No Reporting Requirement**

Where the service information referenced in EASA AD 2021–0023 specifies to submit certain information to the manufacturer, this AD does not include that requirement.

**(j) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, International Validation Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the International Validation Branch, send it to the attention of the person identified in paragraph (k)(2) of this AD. Information may be emailed to: [9-ANM-LAACO-AMOC-REQUESTS@faa.gov](mailto:9-ANM-LAACO-AMOC-REQUESTS@faa.gov).

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

**(k) Related Information**

(1) For EASA AD 2021–0023, contact the EASA, Konrad-Adenauer-Ufer 3, 50668 Cologne, Germany; telephone +49 221 8999 000; email [ADs@easa.europa.eu](mailto:ADs@easa.europa.eu); internet [www.easa.europa.eu](http://www.easa.europa.eu). You may find this EASA AD on the EASA website at <https://ad.easa.europa.eu>. For Airbus Helicopter service information identified in this AD, Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at <https://www.airbus.com/helicopters/services/technical-support.html>. You may view this material at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177. For information on the availability of this material at the FAA, call (817) 222–5110. The EASA material may be found in the AD docket on the internet at <https://www.regulations.gov> by searching for and locating Docket No. FAA–2021–0559.

(2) For more information about this AD, contact Daniel Poblete, Aerospace Engineer, Systems & Equipment Section, Los Angeles ACO Branch, Compliance & Airworthiness Division, 3960 Paramount Blvd., Lakewood, CA 90712; telephone (562) 627–5335; email [daniel.d.poblete@faa.gov](mailto:daniel.d.poblete@faa.gov).

Issued on July 2, 2021.

**Gaetano A. Sciortino,**

*Deputy Director for Strategic Initiatives, Compliance & Airworthiness Division, Aircraft Certification Service.*

[FR Doc. 2021–14692 Filed 7–9–21; 8:45 am]

**BILLING CODE 4910–13–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No.: 210630–0140]

RIN 0648–BK10

**Fisheries of the Northeastern United States; Southern Red Hake Rebuilding Plan; Framework Adjustment 62 to the Small-Mesh Multispecies Fishery Management Plan**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to approve and implement Framework Adjustment 62 for Whiting, Red Hake, and Offshore Hake to the Northeast Multispecies Fishery Management Plan. The purpose of this action is to establish a 10-year rebuilding plan and adjust management measures for the overfished southern red hake stock. This action is necessary to meet the statutory requirements for an overfished stock and rebuilding plan consistent with the Magnuson-Stevens Fishery Conservation and Management Act.

**DATES:** Comments must be received by July 27, 2021.

**ADDRESSES:** The New England Fishery Management Council has prepared a draft environmental assessment (EA) for this action that describes the proposed measures in Framework Adjustment 62, other considered alternatives, and analyzes the impacts of the proposed measures and alternatives. The Council submitted a draft of Framework 62 to NMFS that includes the draft EA, a description of the Council’s preferred alternatives, and the Council’s rationale for selecting each alternative. Copies of the draft Framework 62, the draft EA, and information on the economic impacts of this proposed rulemaking are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: <https://www.nefmc.org/library/framework-62>.

You may submit comments on this document, identified by NOAA–NMFS–2020–0166, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to

<https://www.regulations.gov> and enter NOAA–NMFS–2020–0166 in the Search box. Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

**Instructions:** Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT:** Laura Hansen, Fishery Management Specialist, 978–281–9225.

**SUPPLEMENTARY INFORMATION:**

**Background**

In January 2018, the southern red hake stock was declared overfished. To meet the Magnuson-Stevens Act requirements of an overfished stock, a rebuilding plan and associated management measure changes are necessary to prevent overfishing, ensure adequate rebuilding, and help achieve optimum yield in the fishery. The New England Fishery Management Council took final action on this framework at its June 2020 meeting and submitted the action to us in mid-August 2020.

**Proposed Action**

Framework 62 would establish a 10-year rebuilding schedule for southern red hake. The proposed rebuilding schedule is a range from a minimum associated with a similar increase in biomass that occurred during 2006–2011 to a longer duration that accounts for biological characteristics of red hake. Southern red hake are fully mature, on average, at age 3 and the maximum observed age is 10 years in 2011–2019 survey data. By applying the estimated maturation rate and using biomass at age as a guide, and making reasonable assumptions that fertility (increases by 5 percent per year after age 3) and egg viability (full viability at age 5) increase with age, the Whiting Plan Development Team estimated that 50 percent of lifetime egg production of an unfished female occurs at 4.4 years. By definition, it would take 50 percent of a female’s egg production to exactly replace itself and its mate with offspring that would spawn a successive generation. It would

be reasonable to expect a higher level of confidence that southern red hake can rebuild in approximately two generations, which equates to 10 years. Under this rebuilding program, catch limits would be established by reducing the acceptable biological catch (ABC) to 75-percent of the fishing mortality rate at maximum sustainable yield ( $F_{MSY}$ ) for the duration of the rebuilding period or until the stock reaches its biomass target, whichever happens first. In past years, the ABC has been set at 90-percent or higher of the  $F_{MSY}$ . In addition, it would decrease the trip possession limit from 5,000 pounds (lb) (2,268 kilograms (kg)) to a dual 1,000-lb/600-lb (453.6-kg/272.2-kg) possession limit based on the selectivity of the gear type or mesh size being used. The 600-lb (272.2 kg) possession limit would apply to standard small-mesh trawls (less than 5.5-inch (13.97-centimeters (cm)) square or diamond mesh), which are less selective, while the 1,000-lb (453.6-kg) possession limit would apply to large-mesh trawls and other more selective gear types. These small-mesh selective gear types include raised-footrope trawls, large-mesh belly panel trawls, and rope separator trawls. The reduced possession limits are intended to reduce landings and catch and to incentivize fishermen to use gear and gear configurations that reduce the catch of red hake. The in-season accountability measure will remain in place which would reduce the possession limit to 400 lb (181 kg) when the landings meet or exceed the total allowable landings (TAL) trigger at 40.4 percent of the ACL. The Regional Administrator may deem other gears as selective based on an evaluation of their ability to adequately reduce the catch of red hake and would be announced through issuance of a rule in the **Federal Register**. In addition, the 1,000-lb (453.6-kg) possession limit applies to vessels when using gears other than trawls.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed rule is consistent with all applicable Fishery Management Plans that the Council manages, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is as follows.

The New England Fishery Management Council evaluated the potential socioeconomic impacts of the proposed measures in conjunction with an environmental assessment. This rule would affect all permitted small-mesh multispecies vessels; therefore, the direct regulated entity is a firm that owns at least one small-mesh multispecies permit (either an open access or limited access Northeast multispecies permit). These businesses catch a small fraction of small-mesh multispecies; furthermore, they are minimally affected by the proposed action. To estimate the number of commercial entities that may experience impacts from the proposed action, active small-mesh multispecies entities landing southern red hake are defined as those entities containing permits that are directly regulated and that landed southern red hake in 2018 for commercial sale. In 2018, there were 168 business entities landing southern red hake, of which 167 were classified as small business entities that could potentially be affected by the proposed action. However, it is further estimated that the proposed action would affect only about 50 of those 167 identified as small business entities. These 50 small business entities derived, on average, about 0.57 percent of total entity revenue from red hake.

The measures proposed in Framework 62 would increase the long-term economic benefits on small entities. The proposed action would establish a rebuilding plan and management measures for the southern red hake stock. More specifically, the action would create a lower-tiered year-round trip possession limit based on gear selectivity for southern red hake, unless an in-season accountability measure is put in place which would reduce the possession limit to 400 lb (181 kg) when the landings meet or exceed the TAL trigger at 40.4 percent of the ACL. This is meant to incentivize vessels to use the more selective gear to reduce overall southern red hake catch levels while still allowing a slightly higher possession limit to reduce regulatory discards. Overall, Framework 62 would ensure that catch levels are sustainable and contribute to rebuilding southern red hake stock and, therefore, maximize yield.

The low negative economic loss to small entities from this action are associated with the small decrease in the southern red hake possession limit. The suite of preferred alternatives will result in a slight loss in revenue from a slight decrease in southern red hake landings compared to taking no action, which would keep the southern red hake possession limit at 5,000 lb (2,268 kg) and allow higher overall catch limits (*i.e.*, higher ABC). The proposed changes in management measures are not likely to dramatically change fishing behavior and or catch because 60 to 80 percent of southern red hake are currently discarded due to lack of marketability. The magnitude in economic loss is low because the stock is not typically targeted. Therefore, the Council concluded, and NMFS agrees, that this action would not have a significant adverse impact on a substantial number of small businesses.

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: July 1, 2021.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

■ 2. In § 648.86, add paragraph (d)(1)(v) to read as follows:

#### § 648.86 NE Multispecies possession restrictions.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(v) *Possession of southern red hake while under a rebuilding plan.* When the southern red hake stock, defined as statistical areas 525–526, 533–534, 541–543, 537–539, 562, 611–616, 621–623, 625–628, 631–634, 635–638, is under a rebuilding plan, the year-round possession limit for southern red hake shall be the following:

(A) *Vessels possessing on board or using nets of mesh size smaller than 5.5 in (13.97 cm).* Owners and operators of vessels may possess and land no more

than 600 lb (272 kg) of southern red hake per trip when:

(1) Using trawls with diamond or square mesh size less than 5.5 in (13.97 cm); and/or

(2) A vessel is in possession of a net with mesh size smaller than 5.5 in (13.97 cm), unless it is properly stowed and not available for immediate use in accordance with § 648.2 and not used on that trip.

(B) *Vessels using nets of mesh size greater than or equal to 5.5 in (13.97 cm), using small-mesh selective trawls, or gear other than trawl.* Owners and operators may possess and land no more than 1,000 lb (453 kg) of southern red hake per trip when:

(1) Using trawls with diamond or square mesh size 5.5 in (13.97 cm) or larger;

(2) Using small-mesh selective gear, including raised-footrope trawls as defined in § 648.80(a)(9)(ii), large-mesh belly panel trawls as defined in § 648.84(f), rope separator trawls as defined in § 648.84(e), and other selective gears deemed by the Regional Administrator to adequately reduce the catch of red hake; or

(3) When using gears other than trawls.

\* \* \* \* \*

■ 3. In § 648.90, revise paragraphs (b)(2) introductory text and (b)(2)(i) to read as follows:

**§ 648.90 NE multispecies assessment, framework procedures and specifications, and flexible area action system.**

\* \* \* \* \*

(b) \* \* \*

(2) *Process for specifying ABCs, ACLs, and TALs.* The Whiting PDT shall calculate the OFL and ABC values for each small-mesh multispecies stock based on the control rules established in the FMP. These calculations shall be reviewed by the SSC and guided by terms of reference developed by the Council. The ACLs and TALs shall be calculated based on the SSC's approved ABCs, as specified in paragraphs (a)(2)(i)(A) through (C), and (a)(2)(ii)(A) through (C) of this section.

(i) *Red hake—(A) ABCs.* (1) The Council's SSC will recommend an ABC to the Council for both the northern and southern stocks of red hake. The red hake ABCs are reduced from the OFLs based on an adjustment for scientific uncertainty as specified in the FMP; the ABCs must be less than or equal to the OFL.

(2) While the southern red hake stock is under a rebuilding plan, the ABC for

that stock shall be set to 75-percent of the OFL for the duration of the rebuilding period or until the stock reaches its biomass target, whichever occurs first.

(B) *ACLs.* The red hake ACLs are equal to 95 percent of the corresponding ABCs.

(C) *TALs.* (1) The red hake TALs are equal to the northern red hake and southern red hake ACLs minus a discard estimate based on the most recent 3 years of data and then reduced by 3 percent to account for silver hake and offshore hake landings that occur in state waters.

(2) If more than two-thirds of the southern red hake TAL is harvested in a single year, the Regional Administrator shall consult with the Council and will consider implementing quarterly TALs in the following fishing year, as prescribed in the FMP and in a manner consistent with the requirements of the Administrative Procedure Act.

\* \* \* \* \*

[FR Doc. 2021-14457 Filed 7-9-21; 8:45 am]

BILLING CODE 3510-22-P

# Notices

Federal Register

Vol. 86, No. 130

Monday, July 12, 2021

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B-51-2021]

#### Foreign-Trade Zone (FTZ) 84—Houston, Texas; Notification of Proposed Production Activity; Schlumberger Technology Corporation, Reslink Product Center (Sand Screens and Related Accessories); Baytown and Houston, Texas

Schlumberger Technology Corporation, Reslink Product Center (STC Reslink) submitted a notification of proposed production activity to the FTZ Board for its facilities in Baytown and Houston, Texas. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on July 1, 2021.

STC Reslink already has authority to produce sand screens and related accessories within Subzone 84AA. The current request would add a foreign status material/component to the scope of authority. Pursuant to 15 CFR 400.14(b), additional FTZ authority would be limited to the specific foreign-status material/component described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt STC Reslink from customs duty payments on the foreign-status material/component used in export production. On its domestic sales, for the foreign-status material/component noted below, STC Reslink would be able to choose the duty rates during customs entry procedures that apply to sand screens (with or without filters), swell packers, joint adapters (bottom or top), and jumper tubes (duty rate ranges from duty-free to 5.0%). STC Reslink would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or

reduced on foreign-status production equipment.

The material/component sourced from abroad is cold-rolled stainless steel sheet metal with punched holes (duty-free). The request indicates that the material/component is subject to duties under Section 232 of the Trade Expansion Act of 1962 (Section 232) and Section 301 of the Trade Act of 1974 (Section 301), depending on the country of origin. The applicable Section 232 and Section 301 decisions require subject merchandise to be admitted to FTZs in privileged foreign status (19 CFR 146.41).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary and sent to: [ftz@trade.gov](mailto:ftz@trade.gov). The closing period for their receipt is August 23, 2021.

A copy of the notification will be available for public inspection in the "Reading Room" section of the Board's website, which is accessible via [www.trade.gov/ftz](http://www.trade.gov/ftz).

For further information, contact Juanita Chen at [juanita.chen@trade.gov](mailto:juanita.chen@trade.gov) or 202-482-1378.

Dated: July 7, 2021.

**Andrew McGilvray,**  
Executive Secretary.

[FR Doc. 2021-14749 Filed 7-9-21; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[B-20-2021]

#### Foreign-Trade Zone (FTZ) 177—Evansville, Indiana; Authorization of Production Activity; AstraZeneca Pharmaceuticals LP (Pharmaceutical Products); Mount Vernon, Indiana

On March 9, 2021, AstraZeneca Pharmaceuticals LP submitted a notification of proposed production activity to the FTZ Board for its facility within Subzone 177A, in Mount Vernon, Indiana.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (86 FR 14578, March 17, 2021). On July 7, 2021, the applicant was notified of the FTZ Board's decision that no further review of the activity is

warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: July 7, 2021.

**Andrew McGilvray,**  
Executive Secretary.

[FR Doc. 2021-14704 Filed 7-9-21; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-096]

#### Aluminum Wire and Cable From the People's Republic of China: Rescission of Countervailing Duty Administrative Review; 2019

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is rescinding the administrative review of the countervailing duty (CVD) order on aluminum wire and cable from the People's Republic of China (China) for the period of review (POR) April 8, 2019, through December 31, 2019.

**DATES:** Applicable July 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Caitlin Monks, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2670.

#### SUPPLEMENTARY INFORMATION:

##### Background

On December 2, 2020, Commerce published in the **Federal Register** a notice of opportunity to request an administrative review of the CVD order on aluminum wire and cable from China covering the POR.<sup>1</sup> On December 31, 2020, Commerce received timely requests for review of several companies from Encore Wire Corporation (Encore) and Southwire Company LLC

<sup>1</sup> See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 85 FR 77433 (December 2, 2020) (*Opportunity Notice*).

(collectively, the petitioners),<sup>2</sup> and separately, Repwire LLC (Repwire).<sup>3</sup>

On February 4, 2020, in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act), Commerce published in the **Federal Register** a notice initiating an administrative review of ICF Cable and Jin Tiong Electrical Materials Manufacturer PTE. Limited (Jin Tiong) (collectively, the Companies Subject to the Review).<sup>4</sup> On February 10, 2021, we notified interested parties that information from U.S. Customs and Border Protection (CBP)'s database, which is comprised of actual U.S. entries of subject merchandise, indicated that there were no POR entries of aluminum wire and cable from China that are subject to CVD duties with respect to the Companies Subject to the Review.<sup>5</sup> We invited interested parties to comment on the CBP Entry Data.<sup>6</sup> On February 18, 2021, Encore submitted comments in response to the CBP Entry Data, alleging that ICF Cable exported Chinese-origin subject merchandise to the United States during the POR, and requested that Commerce select ICF Cable as a mandatory respondent in the instant review.<sup>7</sup>

On March 26, 2021, we requested that CBP confirm whether any shipments of aluminum wire and cable from China, produced and/or exported by ICF Cable or Jin Tiong entered the United States during the POR.<sup>8</sup> On April 1, 2021, CBP confirmed that there were no shipments of subject merchandise produced and/or exported by ICF Cable or Jin Tiong during the POR.<sup>9</sup> We invited interested parties to comment on CBP's

<sup>2</sup> See Petitioners' Letter, "Aluminum Wire and Cable from the People's Republic of China: Request for Administrative Review," dated December 31, 2020.

<sup>3</sup> See Repwire's Letter, "Aluminum Wire and Cable from the People's Republic of China. C-570-096; Request for Administrative Review," dated December 31, 2020.

<sup>4</sup> See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 85 FR 8171 (February 4, 2021) (*Initiation Notice*); see also, *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 86 FR 17135 (April 1, 2021) (*Revised Initiation Notice*).

<sup>5</sup> See Memorandum, "Results of U.S. Customs and Border Protection Data Query," dated February 10, 2021 (CBP Entry Data).

<sup>6</sup> *Id.*

<sup>7</sup> See Encore's Letter, "Aluminum Wire and Cable from the People's Republic of China: Comments on Customs Data and Respondent Selection," dated February 18, 2021 (Encore's Respondent Selection Comments).

<sup>8</sup> See Memorandum, "Aluminum Wire and Cable from the People's Republic of China; No Shipment Inquiry for ICF Cable and Jin Tiong Electrical Materials Manufacturer PTE. Limited during the period 04/08/2019 through 12/31/2019," dated April 13, 2021 (CBP's Confirmation of No Shipments) at Attachment.

<sup>9</sup> *Id.* at 1.

Confirmation of No Shipments.<sup>10</sup> On April 19, 2021, Encore submitted timely comments in response to CBP's Confirmation of No Shipments.<sup>11</sup> In its comments, Encore reiterated its claim that ICF Cable made sales, shipments, and/or exports of aluminum wire and cable produced in China during the POR without paying applicable cash deposits, and requested that Commerce issue a quantity and value questionnaire to ICF Cable.<sup>12</sup> Our analysis of the record leads us to conclude that there are no reviewable entries of aluminum wire and cable from China during the POR. For a full discussion of the comments raised by Encore and our analysis, see the Rescission Memorandum.<sup>13</sup>

### Rescission of Review

It is Commerce's practice to rescind an administrative review of a CVD order, pursuant to 19 CFR 351.213(d)(3), when there are no reviewable entries of subject merchandise during the POR for which liquidation is suspended.<sup>14</sup> Normally, upon completion of an administrative review, the suspended entries are liquidated at the CVD assessment rate calculated for the review period.<sup>15</sup> Therefore, for an administrative review to be conducted, there must be a reviewable, suspended entry that Commerce can instruct CBP to liquidate at the CVD assessment rate calculated for the review period.<sup>16</sup> Accordingly, in the absence of suspended entries of subject merchandise during the POR for either of the companies named in the *Initiation Notice*, we are hereby rescinding this administrative review in accordance with 19 CFR 351.213(d)(3).

### Assessment Rates

Commerce will instruct CBP to assess countervailing duties on all appropriate entries. Because Commerce is rescinding this review in its entirety, the entries to which this administrative review pertained shall be assessed at rates equal to the cash deposit of estimated countervailing duties required

<sup>10</sup> See Memorandum, "Deadline for Rebuttal Factual Information," dated April 14, 2021.

<sup>11</sup> See Encore's Letter, "Aluminum Wire and Cable from the People's Republic of China: Comments on CBP No Shipments Response," dated April 19, 2021 (Encore's Rebuttal Comments).

<sup>12</sup> *Id.*

<sup>13</sup> See Memorandum, "Rescission of the 2019 Countervailing Duty Administrative Review," dated concurrently with this notice (Rescission Memorandum).

<sup>14</sup> See, e.g., *Lightweight Thermal Paper from the People's Republic of China: Notice of Rescission of Countervailing Duty Administrative Review*; 2015, 82 FR 14349 (March 20, 2017).

<sup>15</sup> See 19 CFR 351.212(b)(2).

<sup>16</sup> See 19 CFR 351.213(d)(3).

at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). Commerce intends to issue appropriate assessment instructions to CBP no earlier than 35 days after the publication of this notice in the **Federal Register**.

### Notification Regarding Administrative Protective Order

This notice serves as the only reminder to parties subject to the administrative protective order (APO) of their responsibility concerning the destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

### Notification to Interested Parties

This determination is issued and published pursuant to sections 751(a)(1) and 777(i)(1) of the Act, and 19 CFR 351.213(d)(4).

Dated: July 6, 2021.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2021-14748 Filed 7-9-21; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-570-504]

### Petroleum Wax Candles From the People's Republic of China: Final Results of the Expedited Fifth Sunset Review of the Antidumping Duty Order

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) finds that revocation of the antidumping duty order on petroleum wax candles (candles) from the People's Republic of China (China) would be likely to lead to continuation or recurrence of dumping at the levels indicated in the "Final Results of Sunset Review" section of this notice.

**DATES:** Applicable July 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Jasun Moy, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401

Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-8194.

**SUPPLEMENTARY INFORMATION:**

**Background**

On August 28, 1986, Commerce published the antidumping duty order on candles from China.<sup>1</sup> On March 31, 2021, Commerce published the notice of initiation of the five-year sunset review of the *Order*, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).<sup>2</sup> On April 2, 2021, Commerce received a notice of intent to participate in this sunset review from the National Candle Association (the petitioner) within the deadline specified in 19 CFR 351.218(d)(1)(i).<sup>3</sup> The petitioner claimed interested party status under section 771(9)(C) of the Act as the petitioner in the less-than-fair-value investigation whose members are manufacturers, producers, or wholesalers of the domestic like product. On April 29, 2021, the petitioner provided a complete substantive response for this review within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).<sup>4</sup> We received no substantive responses from any other interested parties, nor was a hearing requested. On May 21, 2021, Commerce notified the U.S. International Trade Commission that it did not receive an adequate substantive response from respondent interested parties.<sup>5</sup> As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), Commerce conducted an expedited (120-day) sunset review of this *Order*.

**Scope of the Order**

The products covered by the *Order* include certain scented or unscented petroleum wax candles made from petroleum wax and having fiber or paper-cored wicks. For a full description of the scope, see the Issues and Decision Memorandum.<sup>6</sup>

**Analysis of Comments Received**

All issues raised in this review, including the likelihood of continuation

or recurrence of dumping in the event of revocation and the magnitude of the margins likely to prevail if the order were revoked, are addressed in the accompanying Issues and Decision Memorandum. A list of topics discussed in the Issues and Decision Memorandum is included as an appendix to this notice. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>.

**Final Results of Sunset Review**

Pursuant to sections 751(c)(1) and 752(c)(1) and (3) of the Act, Commerce determines that revocation of the antidumping duty order on candles from China would likely lead to continuation or recurrence of dumping and that the magnitude of the margin of dumping likely to prevail would be weighted-average margins up to 104.33 percent.<sup>7</sup>

**Administrative Protective Order (APO)**

This notice serves as the only reminder to interested parties subject to an APO of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

**Notification to Interested Parties**

We are issuing and publishing these final results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: July 2, 2021.

**Christian Marsh,**

*Acting Assistant Secretary for Enforcement and Compliance.*

**Appendix**

**List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the *Order*
- IV. History of the *Order*
- V. Legal Framework
- VI. Discussion of the Issues

<sup>7</sup> *Id.* at 8.

1. Likelihood of Continuation or Recurrence of Dumping
2. Magnitude of the Margins Likely To Prevail

VII. Final Results of Sunset Review  
VIII. Recommendation

[FR Doc. 2021-14710 Filed 7-9-21; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE**

**International Trade Administration**

[A-570-962, C-570-963]

**Certain Potassium Phosphate Salts From the People's Republic of China: Continuation of Antidumping and Countervailing Duty Orders**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** As a result of the determinations by the Department of Commerce (Commerce) and the International Trade Commission (ITC) that revocation of the antidumping duty (AD) and countervailing duty (CVD) orders on certain potassium phosphate salts (salts) from the People's Republic of China (China) would likely lead to a continuation or recurrence of dumping, countervailable subsidies, and material injury to an industry in the United States, Commerce is publishing a notice of continuation of these AD and CVD orders.

**APPLICABLE DATE:** Applicable July 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Emily Halle (AD order) or Mark Hoadley (CVD order), AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-0176 and (202) 482-3148.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 22, 2010, the Department of Commerce (Commerce) published the AD and CVD orders on salts from China.<sup>1</sup> On November 1, 2020, the ITC instituted,<sup>2</sup> and on November 3, 2020,

<sup>1</sup> See *Certain Potassium Phosphate Salts from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 75 FR 42683 (July 22, 2010); see also *Certain Potassium Phosphate Salts from the People's Republic of China: Countervailing Duty Order*, 75 FR 42682 (July 22, 2010) (collectively, *Orders*).

<sup>2</sup> See *Potassium Phosphate Salts from China; Institution of Five-Year Reviews*, 85 FR 69352 (November 2, 2020).



Commerce initiated,<sup>3</sup> the second sunset review of the *Orders*, pursuant to section 751(c) of the Tariff Act of 1930 as amended (the Act). As a result of its reviews, Commerce determined that a revocation of the *Orders* would likely lead to continuation or recurrence of dumping and countervailable subsidies and, therefore, notified the ITC of the magnitude of the margins and net subsidy rates likely to prevail should the *Orders* be revoked.<sup>4</sup>

On July 7, 2021, the ITC published its determinations, pursuant to sections 751(c) and 752(a) of the Act, that revocation of the *Orders* would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.<sup>5</sup>

### Scope of the Orders

The products covered by the *Orders* include anhydrous Dipotassium Phosphate (DKP) and Tetrapotassium Pyrophosphate (TKPP), whether anhydrous or in solution (collectively “phosphate salts”).

TKPP, also known as normal potassium pyrophosphate, Diphosphoric acid or Tetrapotassium salt, is a potassium salt with the formula  $K_4P_2O_7$ . The CAS registry number for TKPP is 7320–34–5. TKPP is typically 18.7 percent phosphorus and 47.3 percent potassium. It is generally greater than or equal to 43.0 percent  $P_2O_5$  content. TKPP is classified under heading 2835.39.1000 of the Harmonized Tariff Schedule of the United States (HTSUS).

DKP, also known as Dipotassium salt, Dipotassium hydrogen orthophosphate or Potassium phosphate, dibasic, has a chemical formula of  $K_2HPO_4$ . The CAS registry number for DKP is 7758–11–4. DKP is typically 17.8 percent phosphorus, 44.8 percent potassium and 40 percent  $P_2O_5$  content. DKP is classified under heading 2835.24.0000, HTSUS.

The products covered by these *Orders* include the foregoing phosphate salts in all grades, whether food grade or technical grade. The products covered by these *Orders* includes anhydrous DKP without regard to the physical

form, whether crushed, granule, powder or fines. Also covered are all forms of TKPP, whether crushed, granule, powder, fines or solution.

For purposes of the *Orders*, the narrative description is dispositive, and not the tariff heading, American Chemical Society, CAS registry number or CAS name, or the specific percentage chemical composition identified above.

### Continuation of the Orders

As a result of the determinations by Commerce and the ITC that revocation of the *Orders* would likely lead to a continuation or a recurrence of dumping and countervailable subsidies, as well as material injury to an industry in the United States, pursuant to section 751(d)(2) of the Act and 19 CFR 351.218(a), Commerce hereby orders the continuation of the *Orders*.

U.S. Customs and Border Protection will continue to collect AD and CVD cash deposits at the rates in effect at the time of entry for all imports of subject merchandise. The effective date of the continuation of the *Orders* will be the date of publication in the **Federal Register** of this notice of continuation. Pursuant to section 751(c)(2) of the Act and 19 CFR 351.218(c)(2), Commerce intends to initiate the next five-year review of the *Orders* not later than 30 days prior to the fifth anniversary of the effective date of continuation.

### Administrative Protective Order

This notice also serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return/destruction or conversion to judicial protective order of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Failure to comply is a violation of the APO which may be subject to sanctions.

### Notification to Interested Parties

These five-year sunset reviews and this notice are in accordance with sections 751(c) and 751(d)(2) of the Act and published in accordance with section 777(i)(1) of the Act and 19 CFR 351.218(f)(4).

Dated: July 7, 2021.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2021–14756 Filed 7–9–21; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A–122–857]

### Initiation and Preliminary Results of Changed Circumstances Review: Certain Softwood Lumber Products From Canada

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (Commerce) is initiating a changed circumstances review (CCR) of the antidumping duty (AD) order on certain softwood lumber products (softwood lumber) from Canada and simultaneously issuing preliminary results finding CHAP Alliance, Inc. (CHAP) to be the successor-in-interest to L’Atelier de Readaption au Travail de Beauce Inc. (L’Atelier).

**DATES:** Applicable July 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Maisha Cryor, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5831.

### SUPPLEMENTARY INFORMATION:

#### Background

On January 3, 2018, Commerce published in the **Federal Register** an AD order on softwood lumber from Canada.<sup>1</sup> On May 5, 2021, Commerce received a request on behalf of CHAP for an expedited CCR to establish CHAP as the successor-in-interest to L’Atelier with respect to the *Order*.<sup>2</sup> On June 8, 2021, Commerce informed CHAP that it required additional information in order to determine whether to initiate the requested CCR.<sup>3</sup> On June 24, 2021, CHAP provided the requested information.<sup>4</sup>

#### Scope of the Order

The merchandise covered by the *Order* is softwood lumber, siding, flooring and certain other coniferous wood (softwood lumber products).

<sup>1</sup> See *Certain Softwood Lumber Products from Canada: Antidumping Duty Order and Partial Amended Final Determination*, 83 FR 350 (January 3, 2018) (*Order*).

<sup>2</sup> See CHAP’s Letter, “Certain Softwood Lumber from Canada: L’Atelier de Réadaptation au Travail de Beauce Inc. Request for Changed Circumstances Reviews,” dated May 5, 2021 (CGR Request).

<sup>3</sup> See Commerce’s Letter, “Changed Circumstances Review of Certain Softwood Lumber Products from Canada: Supplemental Questionnaire,” dated June 8, 2021.

<sup>4</sup> See CHAP’s Letter, “Certain Softwood Lumber from Canada: Supplemental Questionnaire Response,” dated June 24, 2021.

<sup>3</sup> See *Initiation of Five-Year (Sunset) Reviews*, 85 FR 69585 (November 3, 2020).

<sup>4</sup> See *Certain Potassium Phosphate Salts from the People’s Republic of China: Final Results of the Expedited Second Sunset Review of the Antidumping Duty Order*, 86 FR 13311 (March 8, 2021); see also, *Certain Potassium Phosphate Salts from the People’s Republic of China: Final Results of the Expedited Second Five-Year Sunset Review of the Countervailing Duty Order*, 86 FR 13314 (March 8, 2021).

<sup>5</sup> See *Potassium Phosphate Salts from China*, 86 FR 35827 (July 7, 2021).

Softwood lumber product imports are generally entered under Chapter 44 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of the *Order* is dispositive.<sup>5</sup>

### Initiation

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.216(d), Commerce will conduct a CCR upon receipt of information or a review request showing changed circumstances sufficient to warrant a review of an order. Among other things, Commerce has conducted CCRs to consider the applicability of cash deposit rates after there have been changes in the name or structure of a company, such as a merger or spinoff (successor-in-interest, or successorship, determinations).

We find the information provided is sufficient to warrant a CCR of the *Order*. Specifically, the information CHAP provided regarding L'Atelier's name change to CHAP demonstrates changed circumstances sufficient to warrant a CCR with respect to the *Order*.

Therefore, in accordance with section 751(b)(1) of the Act and 19 CFR 351.216(d), we are initiating a CCR to determine whether CHAP is the successor-in-interest to L'Atelier for purposes of the *Order*.

In addition, Commerce's regulations (19 CFR 351.221(c)(3)(ii)), permit it to initiate a CCR and issue the preliminary results of that CCR simultaneously if it concludes that expedited action is warranted. We have on the record the information necessary to make a preliminary finding and, therefore, we find that expedited action is warranted.<sup>6</sup> Consequently, we are combining the initiation of the CCR described above and our preliminary results, in accordance with 19 CFR 351.221(c)(3)(ii).

### Preliminary Results

In determining whether one company is the successor to another for AD purposes, Commerce examines a number of factors including, but not limited to, changes in: (1) Management;

<sup>5</sup> For a complete description of the scope of the *Order*, see Memorandum, "Initiation and Preliminary Results of Changed Circumstances Review: Certain Softwood Lumber Products from Canada," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<sup>6</sup> See, e.g., *Notice of Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products from Canada*, 70 FR 50299 (August 26, 2005).

(2) production facilities; (3) suppliers; and (4) customer base.<sup>7</sup> While no one, or several, of these factors will necessarily provide a dispositive indication of succession, Commerce will generally consider one company to be the successor to another company if its resulting operations are essentially the same as those of its predecessor.<sup>8</sup> Thus, if the evidence demonstrates that, with respect to the production and sale of the subject merchandise, the company, in its current form, operates as essentially the same business entity as the prior company, Commerce will assign the new company the cash deposit rate of its predecessor.<sup>9</sup>

CHAP provided evidence that: (1) L'Atelier's name changed to CHAP in February 2021; and (2) there were no significant changes to management,<sup>10</sup> production facilities,<sup>11</sup> suppliers, or customer base.<sup>12</sup> Based on the foregoing, which is explained in greater detail in the Preliminary Decision Memorandum, we preliminarily determine that CHAP is the successor-in-interest to L'Atelier for purposes of the *Order*.

Should our final results of review remain the same as these preliminary results of review, effective the date of publication of the final results of review, we will instruct U.S. Customs and Border Protection to apply L'Atelier's cash deposit rate to CHAP.

### Public Comment

Interested parties may submit case briefs not later than 14 days after the date of publication of this notice.<sup>13</sup> Rebuttal briefs, which must be limited to issues raised in case briefs, may be filed not later than seven days after the due date for case briefs.<sup>14</sup> Parties who submit case briefs or rebuttal briefs in this CCR are requested to submit with

<sup>7</sup> See *Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review: Multilayered Wood Flooring from the People's Republic of China*, 79 FR 48117, 48118 (August 15, 2014), unchanged in *Multilayered Wood Flooring from the People's Republic of China: Final Results of Changed Circumstances Review*, 79 FR 58740 (September 30, 2014).

<sup>8</sup> *Id.*

<sup>9</sup> See, e.g., *Certain Circular Welded Carbon Steel Pipes and Tubes from Taiwan: Initiation of Antidumping Duty Changed Circumstance Review*, 70 FR 17063, 17064 (April 4, 2005); and *Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Administrative Review*, 64 FR 9979, 9980 (March 1, 1999).

<sup>10</sup> See CCR Request at Exhibit 4, Attachment A.

<sup>11</sup> *Id.* at Exhibit 4, Attachment B.

<sup>12</sup> *Id.* at Exhibit 4, Attachments C and D.

<sup>13</sup> Commerce is exercising its discretion under 19 CFR 351.309(c)(1)(ii) to alter the time limit for the filing of case briefs.

<sup>14</sup> Commerce is exercising its discretion under 19 CFR 351.309(d)(1) to alter the time limit for the filing of rebuttal briefs.

each argument: (1) A statement of the issues; and (2) a brief summary of the arguments with electronic versions included.

Any interested party may request a hearing within 14 days of publication of this notice.<sup>15</sup> Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm the date and the time of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS).<sup>16</sup> An electronically filed document must be received successfully in its entirety by 5 p.m. Eastern Time (ET) on the due date.

Consistent with 19 CFR 351.216(e), we intend to issue the final results of this CCR no later than 270 days after the date on which these reviews were initiated or within 45 days if all parties agree to the outcome of the review.

We are issuing and publishing this initiation and preliminary results notice in accordance with sections 751(b)(1) and 777(i)(1) of the Act and 19 CFR 351.216 and 351.221(c)(3).

Dated: July 6, 2021.

**Ryan Majerus,**

*Deputy Assistant Secretary for Policy and Negotiations.*

[FR Doc. 2021-14746 Filed 7-9-21; 8:45 am]

**BILLING CODE 3510-DS-P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-570-138]

#### **Pentafluoroethane (R-125) From the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances, in Part, in the Countervailing Duty Investigation**

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

<sup>15</sup> Commerce is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.

<sup>16</sup> ACCESS is available to registered users at <https://access.trade.gov>; see also *Temporary Rule Modifying AD/CVD Service Requirements Due to Covid-19; Extension of Effective Period*, 85 FR 41363, (July 10, 2020).

**SUMMARY:** The Department of Commerce (Commerce) preliminarily determines that critical circumstances exist, in part, with respect to imports of pentafluoroethane (R-125) from certain producers and exporters from the People's Republic of China (China).

**DATES:** Applicable July 12, 2021.

**FOR FURTHER INFORMATION CONTACT:** Joshua Tucker or Adam Simons, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482-2044 or (202) 482-6172, respectively.

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 11, 2021, Commerce received a countervailing duty (CVD) petition concerning imports of R-125 from China filed in proper form on behalf of the petitioner, Honeywell International, Inc.<sup>1</sup> On February 1, 2021, we initiated this investigation,<sup>2</sup> and on June 25, 2021, we published an affirmative *Preliminary Determination*.<sup>3</sup>

Commerce selected Zhejiang Quzhou Juxin Fluorine Chemical Co., Ltd. (Juxin) and Zhejiang Sanmei Chemical Ind. Co., Ltd. (Sanmei) as the individually-examined respondents in this investigation.

On June 4, 2021, the petitioner alleged that critical circumstances exist with respect to imports of R-125 from China, pursuant to section 703(e)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.206.<sup>4</sup> On June 10, 2021, Commerce requested monthly shipment data from Juxin and Sanmei for subject merchandise for the period August 2020 to May 2021, which Commerce received on June 17, 2021.<sup>5</sup>

<sup>1</sup> See Petitioner's Letter, "Petition for the Imposition of Antidumping and Countervailing Duties Pursuant to sections 701 and 731 of the Tariff Act of 1930, as Amended, on Behalf of Honeywell International, Inc.," dated January 11, 2021 (Petition).

<sup>2</sup> See *Pentafluoroethane (R-125) from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 86 FR 8589 (February 8, 2021) (Initiation Notice).

<sup>3</sup> See *Pentafluoroethane (R-125) from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination with Final Antidumping Determination*, 86 FR 33648 (June 25, 2020) (Preliminary Determination), and accompanying Preliminary Decision Memorandum (PDM).

<sup>4</sup> See Petitioner's Letter, "Petitioner's Critical Circumstances Allegation," dated June 4, 2021 (Critical Circumstances Allegation).

<sup>5</sup> See Juxin's Letter, "Juxin Critical Circumstances Response," dated June 17, 2021 (Juxin Critical Circumstances Data); and Sanmei's Letter, "Submission of Zhejiang Sanmei's Critical Circumstances Information," dated June 17, 2021 (Sanmei Critical Circumstances Data).

In accordance with section 703(e)(1) of the Act and 19 CFR 351.206(c)(1), because the petitioner submitted its critical circumstance allegation more than 30 days before the scheduled date of the final determination,<sup>6</sup> Commerce will make a preliminary finding as to whether there is a reasonable basis to believe or suspect that critical circumstances exist. Commerce will issue its preliminary finding of critical circumstances within 30 days after the petitioner submits the allegation.<sup>7</sup>

**Period of Investigation (POI)**

The POI is January 1, 2020, through December 31, 2020.

**Critical Circumstances Allegation**

The petitioner alleges that there was a massive increase of imports of R-125 from China and provided monthly import data for the period October 2020 through March 2021.<sup>8</sup> The petitioner states that a comparison of total imports, by quantity, for the base period October 2020 through December 2020 to the comparison period January 2021 through March 2021, shows that imports of R-125 from China increased by 45.5 percent,<sup>9</sup> which is "massive" under 19 CFR 351.206(h)(2). The petitioner also alleges that there is a reasonable basis to believe that there are subsidies in this investigation which are inconsistent with the Subsidies and Countervailing Measures Agreement of the World Trade Organization (SCM Agreement).<sup>10</sup>

**Critical Circumstances Analysis**

Section 703(e)(1) of the Act provides that Commerce will preliminarily determine that critical circumstances exist in a CVD investigation if there is a reasonable basis to believe or suspect that: (A) The alleged countervailable subsidy is inconsistent with the SCM Agreement;<sup>11</sup> and (B) there have been

<sup>6</sup> The final determination for this CVD investigation is currently due no later than October 21, 2021.

<sup>7</sup> See 19 CFR 351.206(c)(2)(ii). In this case, 30 days after the petitioner submitted the allegation would place the deadline on Sunday, July 4, 2021. Commerce's practice dictates that where a deadline falls on a weekend or federal holiday, the appropriate deadline is the next business day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, As Amended*, 70 FR 24533 (May 10, 2005).

<sup>8</sup> See Critical Circumstances Allegation at 8 and Exhibit 1.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 4-5.

<sup>11</sup> Commerce limits its critical circumstances findings to those subsidies contingent upon export performance or use of domestic over imported goods (*i.e.*, those prohibited under Article 3 of the SCM Agreement). See, *e.g.*, *Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstances Determination:*

massive imports of the subject merchandise over a relatively short period.

In determining whether there are "massive imports" over a "relatively short period," pursuant to section 703(e)(1)(B) of the Act and 19 CFR 351.206(h) and (i), Commerce normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.*, the base period) to a comparable period of at least three months following the filing of the petition (*i.e.*, the comparison period). However, the regulations also provide that if Commerce finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely, Commerce may consider a period of not less than three months from the earlier time.<sup>12</sup> Imports must increase by at least 15 percent during the comparison period to be considered massive.<sup>13</sup>

**Alleged Countervailable Subsidies Are Inconsistent With the SCM Agreement**

*Juxin, Sanmei, and All Other Companies*

On May 3, 2021, the petitioner filed a New Subsidies Allegation, alleging that Chinese producers of subject merchandise benefited from additional subsidies provided by the Government of China, including the Export Buyer's Credit Program and the Export Seller's Credit Program.<sup>14</sup> To determine whether there exists a reasonable basis to believe or suspect that an alleged countervailable subsidy is inconsistent with the SCM Agreement, in accordance with section 703(e)(1)(A) of the Act, Commerce considered the evidence on the record pertaining to the petitioner's allegation that the Export Buyer's Credit Program and the Export Seller's Credit Program are inconsistent with the SCM Agreement. Specifically, with regard to these programs, the petitioner has alleged the elements of a subsidy,<sup>15</sup> supported with information reasonably available to the petitioner,<sup>16</sup> that appear to be export contingent, which would render them inconsistent with the SCM Agreement. Therefore, Commerce preliminarily determines that there is a

*Carbon and Certain Alloy Steel Wire from Germany*, 67 FR 55808, 55809-10 (August 30, 2002).

<sup>12</sup> See 19 CFR 351.206(i).

<sup>13</sup> See 19 CFR 351.206(h)(2).

<sup>14</sup> See Petitioner's Letter, "New Subsidies Allegation," dated May 3, 2021 (New Subsidies Allegation).

<sup>15</sup> See New Subsidies Allegation at 2-5.

<sup>16</sup> *Id.* see also Petitioner's Letter, "New Subsidies Allegation Supplemental Response," dated May 17, 2021.

reasonable basis to believe or suspect that alleged subsidies in the New Subsidies Allegation are inconsistent with the SCM Agreement. As a result, we preliminarily find that the criterion under section 703(e)(1)(A) of the Act has been met for Juxin, Sanmei, and all other exporters or producers not individually examined.

#### *Non-Responsive Companies*

As explained in our *Preliminary Determination*, we preliminarily applied total adverse facts available (AFA) to Arkema Daikin Advanced Fluorochemicals (Changsu) Co., Ltd. (Arkema); Daikin Fluorochemicals (China) Co., Ltd. (Daikin); Hongkong Richmax Ltd. (Hongkong); and Weitron International Refrigeration Equipment (Kunshan) Co., Ltd. (Weitron), pursuant to section 776(b) of the Act. In applying total AFA to these four companies, we preliminarily determined that each benefited from countervailable subsidies under the “Export Loans from Chinese State-Owned Commercial Banks (SOCBs)” program.<sup>17</sup> Although we did not make a preliminary finding as to whether the “Export Loans from SOCBs” program was inconsistent with the SCM Agreement in the *Preliminary Determination*, we now preliminarily find, pursuant to section 776(b) of the Act, that there is a reasonable basis to believe or suspect that the program, as alleged in the Petition and supported by information reasonably available to the petitioner, is export-contingent within the meaning of section 771(5A)(B) of the Act and, thus, inconsistent with the SCM Agreement.<sup>18</sup> We are making the inconsistency determination with regard to this program, which is the only program which we countervailed in the *Preliminary Determination* alleged to be inconsistent with the SCM Agreement. In so doing, we intend to limit the corresponding offset to the dumping margin (if one is found) in the companion antidumping duty investigation, which best fulfills our statutory mandate “to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully,”<sup>19</sup> and induce future cooperation by companies in investigations where the petitioners allege the existence of programs

<sup>17</sup> See *Preliminary Determination* PDM at “Application of AFA: Non-Responsive Q&V Questionnaire Recipients.”

<sup>18</sup> See Countervailing Duty Investigation Initiation Checklist: Pentafluoroethane (R-125) from the People’s Republic of China, dated February 1, 2021.

<sup>19</sup> See Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. 103–316, Vol.1 (1994) at 870, reprinted in 1994 U.S.C.C.A.N. 4040, 4199.

potentially inconsistent with the SCM Agreement.

Thus, because we preliminarily find that the “Export Loans from Chinese SOCBs” program is export-contingent, we preliminarily find that the criterion under section 703(e)(1)(A) of the Act has been met for Arkema, Daikin, Hongkong, and Weitron.

#### **Massive Imports**

Commerce compared the import volumes of Juxin’s and Sanmei’s reported shipments of subject merchandise for the five months immediately preceding and following the filing of the petition. Because the petition was filed on January 11, 2021, and in order to determine whether there was a massive surge in imports for the mandatory respondents, Commerce compared the total volume of shipments during the period of August 2020 through December 2020 (the base period) with the volume of shipments during the period of January 2021 through May 2021 (the comparison period).<sup>20</sup> We preliminarily determine that imports from both Juxin and Sanmei increased by more than 15 percent between the base and comparison periods.<sup>21</sup>

However, for purposes of our “massive imports” determination, we received information on the record about seasonality with respect to Sanmei’s imports which we considered as part of our analysis. Sanmei stated that, while it did experience a massive surge of imports of R-125 between the base and comparison periods, this surge was seasonal in nature. Sanmei also provided its shipment data for comparable periods in 2018–2019 and 2019–2020.<sup>22</sup> Based on our analysis of Sanmei’s shipment data reported for 2018 through 2021, we find that there is a consistent pattern of seasonality evidenced by a significant increase in shipments during the months of January through May (in 2019, 2020, and 2021), when compared to August through December (in 2018, 2019, and 2020). As a result, we preliminarily find that the record reflects that any surge in Sanmei’s imports between the base and comparison periods in this investigation can be explained by seasonal trends. Therefore, we preliminarily determine that, although the surge in imports of R-

<sup>20</sup> See Juxin Critical Circumstances Data; see also Sanmei Critical Circumstances Data.

<sup>21</sup> See Memorandum, “Critical Circumstances Analysis,” dated July 6, 2021.

<sup>22</sup> See Sanmei Critical Circumstances Data. Juxin did not argue that its surge in imports between the base and comparison periods was due to seasonal trends nor did it provide data to permit Commerce to perform a seasonality analysis.

125 from Sanmei during the comparison period was massive, the import surge was massive as a result of seasonal trends and, therefore, critical circumstances do not exist for Sanmei, in accordance with section 733(e)(1)(B) of the Act.<sup>23</sup>

To determine whether imports were massive for all other exporters or producers, Commerce’s normal practice is to subtract shipments reported by the cooperating mandatory respondents from shipment data for subject merchandise from Global Trade Atlas.<sup>24</sup> However, as discussed in the *Initiation Notice*,<sup>25</sup> the Harmonized Tariff Schedule of the United States number under which the subject merchandise enters is a basket category under which non-subject merchandise may enter. Therefore, consistent with our practice, we preliminarily relied on the data of the mandatory respondents as “facts available,” in accordance with section 776(a)(1) of the Act, to determine whether imports from all other exporters or producers were massive.<sup>26</sup> Because we preliminarily determine that imports from both Juxin and Sanmei increased by more than 15 percent between the base and comparison periods, we also preliminarily determine that imports from all other exporters or producers were massive.

Finally, for Arkema, Daikin, Hongkong, and Weitron, we preliminarily determine, pursuant to section 776(b) of the Act, that there was a massive surge in imports between the base and comparison periods.

Accordingly, consistent with section 703(e)(1) of the Act, we preliminarily determine that critical circumstances exist with respect to Arkema, Daikin, Hongkong, Juxin, Weitron, and all other exporters and producers not individually examined.

#### **Final Determination**

We will make a final determination concerning critical circumstances in the final determination of this investigation, which is currently scheduled for October 25, 2021.

<sup>23</sup> *Id.*

<sup>24</sup> See, e.g., *Antidumping Duty Investigation on Refillable Stainless Steel Kegs from Mexico: Preliminary Affirmative Determination of Critical Circumstances*, 84 FR 18796, 18798 (May 2, 2019) (*Kegs from Mexico Preliminary Critical Circumstances Determination*).

<sup>25</sup> See Checklist, “Countervailing Duty Investigation Initiation Checklist: Pentafluoroethane (R-125) from the People’s Republic of China,” dated February 3, 2021 (Initiation Checklist); see also *Initiation Notice*.

<sup>26</sup> See, e.g., *Kegs from Mexico Preliminary Critical Circumstances Determination*, 84 FR at 18798.

**Public Comment**

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance. Interested parties will be notified of the timeline for the submission of case briefs and written comments at a later date. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than seven days after the deadline date for case briefs.<sup>27</sup> Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

**Suspension of Liquidation**

In accordance with section 703(e)(2)(A) of the Act, for Arkema, Daikin, Hongkong, Juxin, Weitron, and all other exporters and producers, we intend to direct U.S. Customs and Border Protection (CBP) to suspend liquidation of any unliquidated entries of subject merchandise from China entered, or withdrawn from warehouse for consumption, on or after March 27, 2021, which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**. For such entries, CBP shall require a cash deposit equal to the estimated preliminary subsidy rates established in the *Preliminary Determination*. This suspension of liquidation will remain in effect until further notice.

**U.S. International Trade Commission (ITC) Notification**

In accordance with section 703(f) of the Act, we intend to notify the ITC of this preliminary determination of critical circumstances.

This determination is issued and published pursuant to sections 703(f) and 777(i)(1) of the Act.

Dated: July 6, 2021.

**James Maeder,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2021-14755 Filed 7-9-21; 8:45 am]

**BILLING CODE 3510-DS-P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Agency Information Collection Activities; Submission to the Office of Management and Budget (OMB) for Review and Approval; Comment Request; Atlantic Highly Migratory Species Vessel and Gear Marking**

The Department of Commerce will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, on or after the date of publication of this notice. We invite the general public and other Federal agencies to comment on proposed, and continuing information collections, which helps us assess the impact of our information collection requirements and minimize the public's reporting burden. Public comments were previously requested via the **Federal Register** on March 22, 2021, (86 FR 15198) during a 60-day comment period. This notice allows for an additional 30 days for public comments.

*Agency:* National Oceanic & Atmospheric Administration (NOAA), Commerce.

*Title:* Atlantic Highly Migratory Species Vessel and Gear Marking.

*OMB Control Number:* 0648-0373.

*Form Number(s):* None.

*Type of Request:* Regular submission [extension of a current information collection].

*Number of Respondents:* 4,767.

*Average Hours per Response:* 45 minutes to mark the vessel; 15 minutes each to mark highflyers, buoys, and floats.

*Total Annual Burden Hours:* 4,950.

*Needs and Uses:* This request is for an extension of a current information collection. These requirements apply to vessel owners in the Atlantic highly migratory species (HMS) Fishery.

Under current regulations at 50 CFR 635.6, fishing vessels permitted for Atlantic HMS fisheries must display their official vessel numbers on their vessels. Flotation devices and high-flyers attached to certain fishing gears must also be marked with the vessel's official number to identify the vessel to which the gear belongs. These requirements are necessary for identification, law enforcement, and monitoring purposes.

Specifically, all vessel owners that hold a valid Atlantic HMS permit under 50 CFR 635.4, other than an Atlantic HMS Angling permit, are required to

display their official vessel identification number. Numbers must be permanently affixed to, or painted on, the port and starboard sides of the deckhouse or hull and on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft. In block Arabic numerals permanently affixed to or painted on the vessel in contrasting color to the background. At least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) in length; at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in length; and at least 3 inches (7.6 cm) in height for vessels 25 ft (7.6 m) in length or less.

Furthermore, the owner or operator of a vessel for which a permit has been issued under § 635.4 and that uses handline, buoy gear, harpoon, longline, or gillnet, must display the vessel's name, registration number or Atlantic Tunas, Atlantic HMS Angling, or Atlantic HMS Charter/Headboat permit number on each float attached to a handline, buoy gear, or harpoon, and on the terminal floats and high-flyers (if applicable) on a longline or gillnet used by the vessel. The vessel's name or number must be at least 1 inch (2.5 cm) in height in block letters or arabic numerals in a color that contrasts with the background color of the float or high-flyer.

*Affected Public:* Business or other for-profit organizations (vessel owners).

*Frequency:* Annually for each vessel or piece of gear required to be marked. The estimated number of gear items that require marking per vessel owner range from 2 buoys for bottom longline vessels, up to 35 buoys for swordfish buoy gear and Caribbean Small Boat vessels.

*Respondent's Obligation:* Mandatory.

*Legal Authority:* Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971 *et seq.*)

This information collection request may be viewed at [www.reginfo.gov](http://www.reginfo.gov). Follow the instructions to view the Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be submitted within 30 days of the publication of this notice on the following website [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function and

<sup>27</sup> See 19 CFR 351.309(d)(1).

entering either the title of the collection or the OMB Control Number 0648–0373.

**Sheleen Dumas,**

*Department PRA Clearance Officer, Office of the Chief Information Officer, Commerce Department.*

[FR Doc. 2021–14740 Filed 7–9–21; 8:45 am]

**BILLING CODE 3510–22–P**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[RTID 0648–XB218]

**Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice; public meeting.

**SUMMARY:** The Mid-Atlantic Fishery Management Council's (Council) Bluefish Advisory Panel will hold a public meeting, jointly with the Atlantic States Marine Fisheries Commission (ASMFC) Bluefish Advisory Panel.

**DATES:** The meeting will be held on Wednesday, July 28, 2021, from 2 p.m. until 4 p.m. For agenda details, see

**SUPPLEMENTARY INFORMATION.**

**ADDRESSES:** The meeting will be held via webinar with a telephone-only connection option. Details on the proposed agenda, webinar listen-in access, and briefing materials can be accessed on the Council's website at: [www.mafmc.org](http://www.mafmc.org).

*Council address:* Mid-Atlantic Fishery Management Council, 800 N State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331; [www.mafmc.org](http://www.mafmc.org).

**FOR FURTHER INFORMATION CONTACT:**

Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

**SUPPLEMENTARY INFORMATION:** The Mid-Atlantic Fishery Management Council's Bluefish Advisory Panel will meet jointly with the Atlantic States Marine Fisheries Commission's Bluefish Advisory Panel via webinar. The purpose of this meeting is to welcome new Advisory Panel members, review recent management track stock assessment information for bluefish, and to review the recommendations of the Scientific and Statistical Committee (SSC) and Monitoring Committee for 2022–23 catch and landings limits.

**Special Accommodations**

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Collins at the Council Office, (302) 526–5253, at least 5 days prior to the meeting date.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: July 7, 2021.

**Tracey L. Thompson,**

*Acting Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 2021–14750 Filed 7–9–21; 8:45 am]

**BILLING CODE 3510–22–P**

**DEPARTMENT OF COMMERCE**

**United States Patent and Trademark Office**

[Docket No.: PTO–P–2020–0027]

**Extension of the Fast-Track Appeals Pilot Program**

**AGENCY:** United States Patent and Trademark Office, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The United States Patent and Trademark Office (USPTO) is extending the Fast-Track Appeals Pilot Program, initiated on July 2, 2020, which provides for the advancement of applications out of their turn in the *ex parte* appeals phase of patent prosecution before the Patent Trial and Appeal Board (PTAB or Board). The Fast-Track Appeals Pilot Program permits an appellant who has filed an *ex parte* appeal and received a notice that the appeal has been docketed to file a petition to expedite the review of the appeal. The Fast-Track Appeals Pilot Program sets a target of reaching a decision on an *ex parte* appeal within six months from the date that the appeal is entered into the program.

**DATES:**

*Applicable Date:* July 12, 2021.

*Duration:* The Fast-Track Appeals Pilot Program will run until July 2, 2022. The USPTO may extend the Fast-Track Appeals Pilot Program (with or without modification) on either a temporary or a permanent basis, or may discontinue the program after that date.

**FOR FURTHER INFORMATION CONTACT:**

Steven Bartlett, PTAB, by telephone at 571–272–9797 or by email at [fasttrackappeals@uspto.gov](mailto:fasttrackappeals@uspto.gov).

**SUPPLEMENTARY INFORMATION:** Appeals to the Board are normally taken up for decision in the order in which they are docketed. See USPTO Standard

Operating Procedure 1, Assignment of judges to panels (Sept. 20, 2018), available at [www.uspto.gov/patents/ptab/resources](http://www.uspto.gov/patents/ptab/resources). Currently, the average appeal pendency is about 13 months, down from 15 months in 2020, and from 30 months in 2015. See the PTAB statistics available at [www.uspto.gov/patents/ptab/statistics](http://www.uspto.gov/patents/ptab/statistics). However, a small number of appeals are advanced out of turn due to a special status reflecting, for example, that the appealed case is a reissue application or a reexamination proceeding, or in light of an inventor's advanced age or poor health.

On July 2, 2020, the PTAB adopted, on a temporary basis, the Fast-Track Appeals Pilot Program, under which an appellant may have an *ex parte* appeal to the Board advanced out of turn by filing a petition under 37 CFR 41.3, accompanied by the petition fee set forth in 37 CFR 41.20(a). See Fast-Track Appeals Pilot Program, 85 FR 39888 (July 2, 2020) (Fast-Track Notice). The Fast-Track Appeals Pilot Program permits an appellant to accelerate the Board's decision on an *ex parte* appeal, hastening the pace at which patentability determinations are made and products or services embodying those patented inventions are brought to the marketplace, and thus spurring follow-on innovation, economic growth, and job creation. The USPTO provides a form for the Fast-Track petition, Form PTO/SB/451, which is available on the USPTO's website at [www.uspto.gov/patents/apply/forms/forms-patent-applications-filed-or-after-september-16-2012](http://www.uspto.gov/patents/apply/forms/forms-patent-applications-filed-or-after-september-16-2012).

The Fast-Track Notice required, *inter alia*, that a petition be filed before July 2, 2021, to participate in the program. The Fast-Track Notice also set a maximum number of 500 appeals that may be advanced through Fast-Track petitions.

The Fast-Track Appeals Pilot Program is hereby extended to accept petitions for advancing out of turn (according “Fast-Track status” to) *ex parte* appeals through July 2, 2022. The requirements for the program remain the same as those set forth in the original notice (see Fast-Track Notice, 85 FR 39888), with the following modification regarding the petition limit.

The upper limit of 500 total granted Fast-Track petitions, as set forth in the Fast-Track Notice, is no longer applicable. To maintain the Board's ability to provide a faster appeal option while timely resolving other appeals, however, the number of granted petitions in the Fast-Track Appeals Pilot Program remains limited to 125 granted petitions per quarter. If a quarterly limit

is reached, the PTAB retains the flexibility to accept additional petitions, either for consideration in that quarter or to be held in abeyance for consideration in the next quarter.

The USPTO tracks the number of granted petitions, the average time to answer petitions, and the average time to render a Board decision on the merits of the *ex parte* appeal after a petition grant. Current information and statistics may be viewed on the PTAB website at [www.uspto.gov/PTABFastTrack](http://www.uspto.gov/PTABFastTrack).

**Andrew Hirshfeld,**

*Commissioner for Patents, Performing the Functions and Duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.*

[FR Doc. 2021-14615 Filed 7-9-21; 8:45 am]

**BILLING CODE 3510-16-P**

**CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

**Notice Inviting Public Input on Executive Order 13985**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Request for comment.

**SUMMARY:** In accordance with Executive Order 13985 of January 20, 2021, the Corporation for National and Community Service, operating as AmeriCorps, is inviting public comment from any interested party, including current and former AmeriCorps program award recipients, regarding any barriers that they, or the communities they served, faced in accessing benefits and services offered by AmeriCorps' programs.

**DATES:** To be considered, public comments must be received electronically no later than midnight eastern standard time (EST) on August 2, 2021.

**ADDRESSES:** Public comments should be submitted online at <http://www.regulations.gov>; search for "Request for Information (RFI) from Non-Federal Stakeholders: Advancing Racial Equity and Support for Underserved Communities." Comments submitted electronically, including attachments, will be posted to the docket unchanged and available to view by the public. Documents and information supporting your comment may be submitted as attachments. Please provide your contact information or organization name on the web-based form for possible follow-up from AmeriCorps. There is a 5,000-character limit on comments and maximum

number (10) of attached files and maximum size (10 MB) of each attached file.

**FOR FURTHER INFORMATION CONTACT:** Kiara Rhodes, Honors Attorney, AmeriCorps, at [krhodes@cns.gov](mailto:krhodes@cns.gov) or (202) 937-6965.

**SUPPLEMENTARY INFORMATION:** On January 20, 2021, President Biden signed Executive Order 13985, "Advancing Racial Equity and Support for Underserved Communities Through the Federal Government," to address racial, economic, and other disparities faced by underserved communities in the United States. The Order requires Federal agencies to conduct an equity assessment. In furthering this Agency's commitment to bringing together and serving all communities, AmeriCorps seeks general public input on the following:

1. Potential barriers that underserved communities and individuals may face to enrollment in and access to benefits and services in AmeriCorps programs;
2. Potential barriers that underserved communities and individuals may face in taking advantage of Agency procurement and contracting opportunities;
3. Whether new policies, regulations, or guidance documents may be necessary to advance equity in Agency actions and programs; and
4. Knowledge of any offices or divisions within the Agency that are responsible for advancing civil rights or whose mandates specifically include serving underrepresented or disadvantaged communities.

Dated: July 7, 2021.

**Fernando Laguarda,**  
*General Counsel.*

[FR Doc. 2021-14735 Filed 7-9-21; 8:45 am]

**BILLING CODE 6050-28-P**

**DEPARTMENT OF EDUCATION**

[Docket No.: ED-2021-SCC-0100]

**Agency Information Collection Activities; Comment Request; Endowment Excise Tax: Allocation Reduction Waiver**

**AGENCY:** Office of Postsecondary Education (OPE), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is requesting the Office of Management and Budget (OMB) to conduct an emergency review of a new information collection.

**DATES:** The Department is requesting emergency processing and OMB approval for this information collection by July 26, 2021; and therefore, the Department is requesting public comments by July 23, 2021. A regular clearance process is also hereby being initiated to provide the public with the opportunity to comment under the full comment period. Interested persons are invited to submit comments on or before September 10, 2021.

**ADDRESSES:** To access and review all the documents related to the information collection listed in this notice, please use <http://www.regulations.gov> by searching the Docket ID number ED-2021-SCC-0100. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. If the [regulations.gov](http://www.regulations.gov) site is not available to the public for any reason, ED will temporarily accept comments at [ICDocketMgr@ed.gov](mailto:ICDocketMgr@ed.gov). Please include the docket ID number and the title of the information collection request when requesting documents or submitting comments. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the PRA Coordinator of the Strategic Collections and Clearance Governance and Strategy Division, U.S. Department of Education, 400 Maryland Ave. SW, LBJ, Room 6W208C, Washington, DC 20202-8240.

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Karen Epps, 202-453-6337.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the

following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Endowment Excise Tax: Allocation Reduction Waiver.

*OMB Control Number:* 1840–NEW.

*Type of Review:* A new information collection.

*Respondents/Affected Public:* Private Sector.

*Total Estimated Number of Annual Responses:* 200.

*Total Estimated Number of Annual Burden Hours:* 200.

*Abstract:* In accordance with the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (CRRSAA), Public Law 116–260, section 314(d)(6)(B), the Secretary may waive the requirements to reduce a grantee's CRRSAA allocation by 50 percent, if upon application, an institution of higher education demonstrates need (including need for additional funding for financial aid grants to students, payroll expenses, or other expenditures) for the total amount of funds such institution is allocated under section 314(a)(1) of CRRSAA. The proposed form provides institutions with the opportunity to request this waiver and collects data needed to evaluate their waiver request.

*Additional Information:* If this emergency collection is not approved, the Department will be unable to receive and review waiver requests in a timely manner, delaying the release of funds to institutions of higher education and students that are still recovering from the effects of the pandemic.

Dated: July 7, 2021.

**Juliana Pearson,**

*PRA Coordinator, Strategic Collections and Clearance, Governance and Strategy Division, Office of Chief Data Office, Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2021–14736 Filed 7–9–21; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Accrediting Agencies Currently Undergoing Review for the Purposes of Recognition by the U.S. Secretary of Education

**AGENCY:** Accreditation Group, Office of Postsecondary Education, U.S. Department of Education.

**ACTION:** Call for written third-party comments.

**SUMMARY:** This notice provides information to members of the public on submitting written comments for accrediting agencies currently undergoing review for purposes of recognition by the U.S. Secretary of Education.

#### FOR FURTHER INFORMATION CONTACT:

Herman Bounds, Director, Accreditation Group, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW, Room 270–01, Washington, DC 20202, telephone: (202) 453–7615, or email: [herman.bounds@ed.gov](mailto:herman.bounds@ed.gov).

**SUPPLEMENTARY INFORMATION:** This request for written third-party comments concerning the performance of accrediting agencies under review by the Secretary of Education is required by § 496(n)(1)(A) of the Higher Education Act (HEA) of 1965, as amended, and pertains to the summer 2022 meeting of the National Advisory Committee on Institutional Quality and Integrity (NACIQI). The meeting date and location have not been determined, but will be announced in a later **Federal Register** notice. In addition, a later **Federal Register** notice will describe how to register to provide oral comments at the meeting.

*Agencies Under Review and Evaluation:* The Department requests written comments from the public on the following accrediting agencies, which are currently undergoing review and evaluation by the Accreditation Group, and which will be reviewed at the summer 2022 NACIQI meeting.

The agencies are listed by the type of application each agency has submitted. Please note, each agency's current scope of recognition is indicated below. If any agency requests a change to its scope of recognition, identified are both the current scope of recognition and the requested scope of recognition.

#### Applications for Renewal of Recognition

1. Association for Biblical Higher Education, Commission on Accreditation. Scope of recognition: The accreditation and pre-accreditation ("Candidate Status") of institutions of

biblical higher education in the United States offering undergraduate certificates, associate degrees, baccalaureate degrees, graduate certificates, and master's degrees, including the accreditation of educational programs offered via distance education.

2. American Occupational Therapy Association, Accreditation Council for Occupational Therapy Education. Scope of recognition: The accreditation of occupational therapy educational programs offering the professional master's degree, combined baccalaureate/master's degree, and occupational therapy doctorate (OTD) degree; the accreditation of occupational therapy assistant programs offering the associate degree or a certificate; and the accreditation of these programs offered via distance education. Requested scope of recognition: The pre-accreditation and accreditation throughout the United States of occupational therapy education programs offering the professional master's degree, combined baccalaureate/master's degree, and occupational therapy doctorate (OTD) degree; and occupational therapy assistant programs offering the baccalaureate degree, associate degree, or a certificate; including those programs offered via distance education.

3. Accreditation Council for Pharmacy Education. Scope of recognition: The accreditation and pre-accreditation within the United States of professional degree programs in pharmacy leading to the degree of Doctor of Pharmacy, including those programs offered via distance education.

4. Association for Clinical Pastoral Education, Inc., Accreditation Commission. Scope of recognition: The pre-accreditation (provisional) and accreditation of both clinical pastoral education (CPE) centers and Certified Educator CPE programs within the United States, including those that offer those programs via distance education.

5. American Dental Association, Commission on Dental Accreditation. Scope of recognition: The accreditation of predoctoral dental education programs (leading to the D.D.S. or D.M.D. degree), advanced dental education programs, and allied dental education programs that are fully operational or have attained "Initial Accreditation" status, including programs offered via distance education.

6. Distance Education Accrediting Commission. Scope of recognition: The accreditation of postsecondary institutions in the United States that offer degree and/or non-degree programs primarily by the distance or correspondence education method up to



and including the professional doctoral degree, including those institutions that are specifically certified by the agency as accredited for Title IV purposes.

7. Middle States Commission on Secondary Schools. Scope of recognition: The accreditation of postsecondary, non-degree granting institutions that offer all or part of their educational programs via distance education modalities in the United States.

8. Southern Association of Colleges and Schools, Commission on Colleges (“SACSCOC”). Scope of recognition: The accreditation and pre-accreditation (“Candidate for Accreditation”) of degree-granting institutions of higher education in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia, including the accreditation of programs offered via distance and correspondence education within these institutions. This recognition extends to the SACSCOC Board of Trustees and the Appeals Committee of the College Delegate Assembly on cases of initial candidacy or initial accreditation and for continued accreditation or candidacy.

#### Compliance Reports

1. New York State Board of Regents, State Education Department, Office of the Professions (Public Postsecondary Vocational Education, Practical Nursing). Scope of Recognition: State agency for the approval of public postsecondary vocational education in the field of practical nursing offered by a Board of Cooperative Educational Services, an Educational Opportunity Center, City School Districts, and County Boards of Supervisors to prepare persons for licensed practical nursing careers in the State of New York. The compliance report includes findings of noncompliance with Criteria in 34 CFR 603 as referenced in the SDO decision letter dated May 27, 2020 available under NACIQI meeting date 02/27/2020 at <https://surveys.ope.ed.gov/erecognition/PublicDocuments>.

#### Submission of Written Comments Regarding a Specific Accrediting Agency Under Review

Written comments about the recognition of any of the accrediting agencies listed above must be received by August 15, 2021, in the [ThirdPartyComments@ed.gov](mailto:ThirdPartyComments@ed.gov) mailbox. Please include in the subject line “Written Comments: (agency name).” The electronic mail (email) must include the name(s), title, organization/affiliation, mailing address, email address, and telephone number of the

person(s) making the comment. Comments should be submitted as a Microsoft Word document or in a medium compatible with Microsoft Word (not a PDF file) that is attached to an email or provided in the body of an email message. Comments about an agency that has submitted a compliance report scheduled for review by the Department must relate to the criteria for recognition cited in the senior Department official’s letter that requested the report, or in the Secretary’s appeal decision, if any. Comments about an agency that has submitted a petition for initial recognition, renewal of recognition, or an expansion of scope must relate to the agency’s compliance with the Criteria for the Recognition of Accrediting Agencies, which are available at <http://www.ed.gov/admins/finaid/accred/index.html>.

Only written materials submitted by the deadline to the email address listed in this notice, and in accordance with these instructions, become part of the official record concerning agencies scheduled for review and are considered by the Department and NACIQI in their deliberations.

**Electronic Access to This Document:** The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys). At this site you can view this document, as well as all other documents of the Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the site. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

**Authority:** 20 U.S.C. 1011c; 20 U.S.C. 1099b.

#### Annmari Weisman,

Deputy Assistant Secretary for Policy, Planning and Innovation, Office of Postsecondary Education.

[FR Doc. 2021-14741 Filed 7-9-21; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF EDUCATION

[Docket No. ED-2021-SCC-0034]

### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Assurance of Compliance—Civil Rights Certificate

**AGENCY:** Office of Civil Rights (OCR), Department of Education (ED).

**ACTION:** Notice.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of a currently approved collection.

**DATES:** Interested persons are invited to submit comments on or before August 11, 2021.

**ADDRESSES:** Written comments and recommendations for proposed information collection requests should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this information collection request by selecting “Department of Education” under “Currently Under Review,” then check “Only Show ICR for Public Comment” checkbox. Comments may also be sent to [ICDocketmgr@ed.gov](mailto:ICDocketmgr@ed.gov).

**FOR FURTHER INFORMATION CONTACT:** For specific questions related to collection activities, please contact Elizabeth Wiegman, 202-453-6039.

**SUPPLEMENTARY INFORMATION:** The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public’s reporting burden. It also helps the public understand the Department’s information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the

respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

*Title of Collection:* Assurance of Compliance—Civil Rights Certificate.

*OMB Control Number:* 1870–0503.

*Type of Review:* An extension of a currently approved collection.

*Respondents/Affected Public:* State, Local, and Tribal Governments; Private Sector.

*Total Estimated Number of Annual Responses:* 25.

*Total Estimated Number of Annual Burden Hours:* 8.

*Abstract:* The Office for Civil Rights (OCR) has enforcement responsibilities under several civil rights laws, including Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and the Boy Scouts of America Equal Access Act. To meet these responsibilities, OCR collects assurances of compliance from applicants for Federal financial assistance from, and applicants for funds made available through, the Department of Education, as required by regulations. These entities include, for example, State educational agencies, local education agencies, and postsecondary educational institutions. If a recipient violates one or more of these civil rights laws, OCR and the Department of Justice can use the signed assurances of compliance in an enforcement proceeding.

Dated: July 7, 2021.

**Juliana Pearson,**

*PRA Coordinator, Strategic Collections and Clearance Governance and Strategy Division Office of Chief Data Officer Office of Planning, Evaluation and Policy Development.*

[FR Doc. 2021–14742 Filed 7–9–21; 8:45 am]

**BILLING CODE 4000–01–P**

## DEPARTMENT OF EDUCATION

### Applications for New Awards; Innovative Approaches to Literacy Program

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Notice.

**SUMMARY:** The Department of Education (Department) is issuing a notice inviting applications for new awards for fiscal year (FY) 2021 for the Innovative Approaches to Literacy (IAL) Program, Assistance Listing Number 84.215G. This notice relates to the approved

information collection under OMB control number 1894–0006.

#### **DATES:**

*Applications Available:* July 12, 2021.

*Deadline for Notice of Intent to Apply:* July 22, 2021.

*Deadline for Transmittal of Applications:* August 11, 2021.

*Deadline for Intergovernmental Review:* September 10, 2021.

**ADDRESSES:** For the addresses for obtaining and submitting an application, please refer to our Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at [www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf](http://www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf).

#### **FOR FURTHER INFORMATION CONTACT:**

Simon Earle, U.S. Department of Education, 400 Maryland Avenue SW, Room 3E254, Washington, DC 20202–6450. Telephone: (202) 453–7923. Email: [Simon.Earle@ed.gov](mailto:Simon.Earle@ed.gov).

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

#### *Pre-Application Webinar Information:*

The Department will hold a pre-application meeting via webinar for prospective applicants. For information about the pre-application webinar, visit the IAL website at: <https://oese.ed.gov/offices/office-of-discretionary-grants-support-services/well-rounded-education-programs/innovative-approaches-to-literacy/>.

#### **SUPPLEMENTARY INFORMATION:**

#### **Full Text of Announcement**

#### **I. Funding Opportunity Description**

*Purpose of Program:* The IAL program supports high-quality programs designed to develop and improve literacy skills for children and students from birth through 12th grade in high-need local educational agencies (LEAs) and schools. The Department intends to promote innovative literacy programs that support the development of literacy skills in low-income communities, including programs that (1) develop and enhance effective school library programs, which may include providing professional development for school librarians, books, and up-to-date materials to high-need schools; (2) provide early literacy services, including pediatric literacy programs through which, during well-child visits, medical providers trained in research-based methods of early language and literacy promotion provide developmentally appropriate books and

recommendations to parents to encourage them to read aloud to their children starting in infancy; and (3) provide high-quality books on a regular basis to children and adolescents from low-income communities to increase reading motivation, performance, and frequency.

The Explanatory Statement for Division H of the Consolidated Appropriations Act, 2021 (Pub. L. 116–260) (2021 Appropriations Explanatory Statement) includes language directing the Department to reserve no less than 50 percent of funds under the IAL program for grants to develop and enhance effective school library programs, which may include providing professional development to school librarians and books and up-to-date materials to high-need schools (166 Cong. Rec. H8634, 2020). While report language does not create a legal requirement to reserve the specified amount of funding for school library programs, the number of high-quality applications related to school library programs received under IAL competitions generally has allowed the Department to meet this report language directive.

*Priorities:* This notice contains two absolute priorities and three competitive preference priorities. Absolute Priorities 1 and 2 were established in the notice of final priorities and requirement for IAL (NFP), published elsewhere in this issue of the **Federal Register**. Competitive Preference Priority 1 is from the Administrative Priorities for Discretionary Grant Programs, published in the **Federal Register** on March 9, 2020 (85 FR 13640) (Administrative Priorities). Competitive Preference Priorities 2 and 3 are from the NFP.

*Absolute Priorities:* For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are absolute priorities. Under 34 CFR 75.105(c)(3), we consider only applications that meet at least one of these absolute priorities.

These priorities are:

*Absolute Priority 1—Projects, Carried Out in Coordination With School Libraries, for Book Distribution, Childhood Literacy Activities, or Both.*

Projects that propose to coordinate with school libraries to carry out grant activities, such as book distributions, childhood literacy activities, or both, for the proposed project.

*Absolute Priority 2—Projects, Carried Out in Coordination With School Libraries, That Provide a Learning Environment That Is Racially, Ethnically, Culturally, Disability Status*

and Linguistically Responsive and Inclusive, Supportive, and Identity-Safe.

Projects coordinated with school libraries and designed to be responsive to racial, ethnic, cultural, disability, and linguistic differences in a manner that creates inclusive, supportive, and identity-safe learning environments.

In its application, the applicant must—

(a) Describe the types of racially, ethnically, culturally, disability status, and linguistically responsive program design elements that the applicant proposes to include in its project;

(b) Explain how its program design will create inclusive, supportive, and identity-safe environments; and

(c) Describe how its project will be carried out in coordination with school libraries.

**Competitive Preference Priorities:** For FY 2021 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award up to an additional 13 points to an application, depending on how well the application meets one or more of these priorities. For Competitive Preference Priority 1, we award an additional five points to an application that meets the priority. For Competitive Preference Priority 2, we award an additional five points to an application that meets the priority. For Competitive Preference Priority 3, we award up to an additional three points, depending on which priority subpart (a, b, or c) the applicant meets.

These priorities are:

**Competitive Preference Priority 1—Rural Applicants.** (0 or 5 points)

Under this priority, an applicant must demonstrate the applicant proposes to serve a community that is served by one or more LEAs with a locale code of 32, 33, 41, 42, or 43.

**Note:** To determine whether a particular LEA is eligible for the Small, Rural School Achievement program (SRSA) or Rural and Low-Income School program (RLIS), refer to the Department's website at <https://oese.ed.gov/offices/office-of-formula-grants/rural-insular-native-achievement-programs/rural-education-achievement-program/>. Applicants are encouraged to retrieve locale codes from the National Center for Education Statistics (NCES) School District search tool (<https://nces.ed.gov/ccd/districtsearch/>), where LEAs can be looked up individually to retrieve locale codes and Public School search tool (<https://nces.ed.gov/ccd/schoolsearch/>), where individual schools can be looked up to retrieve locale codes. Applicants are encouraged to retrieve campus settings from the NCES College Navigator search tool (<https://nces.ed.gov/collegenavigator/>) where IHEs can be looked up individually to determine the campus setting.

**Competitive Preference Priority 2—Supporting Students in Urban Areas.** (0 or 5 points)

Projects that are designed to serve one or more urban LEAs. In its application, an applicant must demonstrate one of the following:

(a) The applicant is an eligible LEA or consortium of eligible LEAs with a locale code of 11, 12, or 13.

(b) The applicant is a national nonprofit that proposes to serve schools within eligible LEAs all of which have a locale code of 11, 12, or 13.

**Note:** Applicants are encouraged to retrieve locale codes from the NCES School District search tool (<https://nces.ed.gov/ccd/districtsearch/>), searching by LEA.

**Competitive Preference Priority 3—Supporting Students From Low-Income Families.** (up to 3 points)

Projects that serve LEAs serving students from low-income families. In its application, an applicant must demonstrate, based on Small Area Income and Poverty Estimates (SAIPE) data from the U.S. Census Bureau or, for an LEA for which SAIPE data are not available, the same State-derived equivalent of SAIPE data that the State uses to make allocations under part A of title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA), one of the following:

(a) At least 30 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line. (1 point)

(b) At least 40 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line. (2 points)

(c) At least 50 percent of the students enrolled in each of the LEAs to be served by the proposed project are from families with an income below the poverty line. (3 points)

**Definitions:** The definitions of “demonstrates a rationale,” “logic model,” “project component,” and “relevant outcome” are from 34 CFR 77.1. The definition of “eligible national nonprofit organization” is from section 2226(b)(2) of the ESEA (20 U.S.C. 6646(b)(2)). The definition of “local educational agency” is from section 8101(30) (20 U.S.C. 7801(30)) of the ESEA.

**Demonstrates a rationale** means a key project component included in the project's logic model is informed by research or evaluation findings that suggest the project component is likely to improve relevant outcomes.

**Eligible national nonprofit organization (NNP)** means an organization of national scope that—

(a) Is supported by staff, which may include volunteers, or affiliates at the State and local levels; and

(b) Demonstrates effectiveness or high-quality plans for addressing childhood literacy activities for the population targeted by the grant.

**Note:** A local affiliate of an NNP organization does not meet the definition of NNP organization. Only a national agency, organization, or institution is eligible to apply as an NNP organization.

**Local educational agency means:**

(a) In general—The term *local educational agency* means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or of or for a combination of school districts or counties that is recognized in a State as an administrative agency for its public elementary schools or secondary schools.

(b) Administrative Control and Direction—The term includes any other public institution or agency having administrative control and direction of a public elementary school or secondary school.

(c) Bureau of Indian Education Schools—The term includes an elementary school or secondary school funded by the Bureau of Indian Education but only to the extent that including the school makes the school eligible for programs for which specific eligibility is not provided to the school in another provision of law and the school does not have a student population that is smaller than the student population of the local educational agency receiving assistance under this Act with the smallest student population, except that the school shall not be subject to the jurisdiction of any State educational agency other than the Bureau of Indian Education.

(d) Educational Service Agencies—The term includes educational service agencies and consortia of those agencies.

(e) State Educational Agency—The term includes the State educational agency in a State in which the State educational agency is the sole educational agency for all public schools.

**Logic model** (also referred to as a theory of action) means a framework that identifies key project components

of the proposed project (*i.e.*, the active “ingredients” that are hypothesized to be critical to achieving the relevant outcomes) and describes the theoretical and operational relationships among the key project components and relevant outcomes.

*Project component* means an activity, strategy, intervention, process, product, practice, or policy included in a project. Evidence may pertain to an individual project component or to a combination of project components (*e.g.*, training teachers on instructional practices for English learners and follow-on coaching for these teachers).

*Relevant outcome* means the student outcome(s) or other outcome(s) the key project component is designed to improve, consistent with the specific goals of the program.

*Program Authority*: Section 2226 of the ESEA (20 U.S.C. 6646).

**Note**: Projects will be awarded and must be operated in a manner consistent with the nondiscrimination requirements contained in the Federal civil rights laws.

*Applicable Regulations*: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations in 34 CFR part 299. (e) The NFP. (f) The Administrative Priorities.

**Note**: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

## II. Award Information

*Type of Award*: Discretionary grants.  
*Estimated Available Funds*:

\$25,000,000.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2022 from the list of unfunded applications from this competition.

*Estimated Range of Awards*: \$175,000 to \$750,000.

*Estimated Average Size of Awards*: \$500,000.

*Estimated Number of Awards*: 40–60.

**Note**: The Department is not bound by any estimates in this notice.

*Project Period*: 60 months.

## III. Eligibility Information

1. *Eligible Applicants*: To be considered for an award under this competition, an applicant must be one or more of the following:

(1) An LEA in which 20 percent or more of the students served by the LEA are from families with an income below the poverty line (as defined in section 8101(41) of the ESEA).

(2) A consortium of such LEAs described in paragraph (1) above.

(3) The Bureau of Indian Education.

(4) An eligible national nonprofit organization (as defined in section 2226(b)(2) of the ESEA) that serves children and students within the attendance boundaries of one or more eligible LEAs.

**Note**: Under the definition of “poverty line” in section 8101(41) of the ESEA, the determination of the percentage of students served by an LEA from families with an income below the poverty line is based on the U.S. Census Bureau’s SAIPE data.

An entity that meets the definition of an LEA in section 8101(30) of the ESEA and that serves multiple LEAs, such as a county office of education, an education service agency, or regional service education agency, must provide the most recent SAIPE data for each of the individual LEAs it serves. To determine whether the entity meets the poverty threshold, the Department will derive the entity’s poverty rate by aggregating the number of students from families below the poverty line (as provided in SAIPE data) in each of the LEAs the entity serves and dividing it by the total number of students (as provided in SAIPE data) in all of the LEAs the entity serves.

An LEA for which SAIPE data are not available, such as a non-geographic charter school, must provide a determination by the State educational agency (SEA) that 20 percent or more of the students aged 5–17 in the LEA are from families with incomes below the poverty line based on the same State-derived poverty data the SEA used to determine the LEA’s allocation under part A of title I of the ESEA.

**Note**: If you are a nonprofit organization, under 34 CFR 75.51, you may demonstrate your nonprofit status by providing: (1) Proof that the Internal Revenue Service currently recognizes the applicant as an organization to which contributions are tax deductible under section 501(c)(3) of the Internal Revenue Code; (2) a statement from a State taxing body or the State attorney general certifying that the organization is a nonprofit organization operating within the State and that no part of its net earnings may lawfully benefit any private shareholder or individual; (3) a certified copy of the applicant’s certificate of incorporation or similar

document if it clearly establishes the nonprofit status of the applicant; or (4) any item described above if that item applies to a State or national parent organization, together with a statement by the State or parent organization that the applicant is a local nonprofit affiliate.

2. a. *Cost Sharing or Matching*: This competition does not require cost sharing or matching.

b. *Supplement-Not-Supplant*: This competition involves supplement-not-supplant funding requirements. Section 2301 of the ESEA provides that funds made available under this program must be used to supplement, and not supplant, non-Federal funds that would otherwise be used for IAL program activities by grantees. 20 U.S.C. 1221e–3, 3474, and 6511(a); 34 CFR 76.564 through 76.569.

c. *Indirect Cost Rate Information*: This program uses a restricted indirect cost rate. For more information regarding indirect costs, or to obtain a negotiated indirect cost rate, please see [www2.ed.gov/about/offices/list/ocfo/intro.html](http://www2.ed.gov/about/offices/list/ocfo/intro.html).

d. *Administrative Cost Limitation*: This program does not include any program-specific limitation on administrative expenses. All administrative expenses must be reasonable and necessary and conform to Cost Principles described in 2 CFR part 200 subpart E of the Uniform Guidance.

3. *Subgrantees*: A grantee under this competition may not award subgrants to entities to directly carry out project activities described in its application.

## IV. Application and Submission Information

1. *Application Submission Instructions*: Applicants are required to follow the Common Instructions for Applicants to Department of Education Discretionary Grant Programs, published in the **Federal Register** on February 13, 2019 (84 FR 3768) and available at [www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf](http://www.govinfo.gov/content/pkg/FR-2019-02-13/pdf/2019-02206.pdf), which contain requirements and information on how to submit an application.

2. *Submission of Proprietary Information*: Given the types of projects that may be proposed in applications for the IAL program, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define “business information” and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of

Information Act (5 U.S.C. 552, as amended).

Because we plan to make successful applications available to the public, you may wish to request confidentiality of business information.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under "Other Attachments Form," please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Intergovernmental Review*: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition. Please note that, under 34 CFR 79.8(a), we have shortened the standard 60-day intergovernmental review period in order to make awards by the end of FY 2021.

4. *Funding Restrictions*: We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

5. *Recommended Page Limit*: The application narrative is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you (1) limit the application narrative to no more than 25 pages and (2) use the following standards:

- A "page" is 8.5" x 11", on one side only, with 1" margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.

- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to the cover sheet; the budget section, including the narrative budget justification; the assurances and certifications; the one-page abstract, resumes, bibliography, logic model, or letters of support. However, the recommended page limit does apply to all of the application narrative.

6. *Notice of Intent to Apply*: The Department will be able to review grant applications more efficiently if we know

the approximate number of applicants that intend to apply. Therefore, we strongly encourage each potential applicant to notify us of their intent to submit an application. To do so, please email the program contact person listed under **FOR FURTHER INFORMATION CONTACT** with the subject line "Intent to Apply," and include the applicant's name and a contact person's name and email address. Applicants that do not submit a notice of intent to apply may still apply for funding; applicants that do submit a notice of intent to apply are not bound to apply or bound by the information provided.

#### V. Application Review Information

1. *Selection Criteria*: The selection criteria for this competition are from 34 CFR 75.210 and are as follows:

(a) *Significance* (up to 20 points).

The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(1) The significance of the problem or issue to be addressed by the proposed project.

(2) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(3) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(b) *Quality of the project design* (up to 20 points).

The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(3) The extent to which the proposed project represents an exceptional approach for meeting statutory purposes and requirements.

(4) The extent to which the proposed project demonstrates a rationale (as defined in this notice).

(c) *Quality of project services* (up to 25 points).

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by

the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability.

In addition, the Secretary considers the following factors:

(1) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or beneficiaries of those services.

(2) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(3) The extent to which the services to be provided by the proposed project are focused on those with greatest needs.

(d) *Quality of the management plan* (up to 25 points).

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(2) The adequacy of procedures for ensuring feedback and continuous improvement in the operation of the proposed project.

(3) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(e) *Quality of project evaluation* (up to 10 points).

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are appropriate to the context within which the project operates.

(2) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

2. *Review and Selection Process*: We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the

applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Risk Assessment and Specific Conditions*: Consistent with 2 CFR 200.206, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 200.208, the Secretary may impose specific conditions and, under 2 CFR 3474.10, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

4. *Integrity and Performance System*: If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$250,000), under 2 CFR 200.206(a)(2) we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through the System for Award Management. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

5. *In General*: In accordance with the Office of Management and Budget's guidance located at 2 CFR part 200, all applicable Federal laws, and relevant Executive guidance, the Department will review and consider applications for funding pursuant to this notice inviting applications in accordance with—

(a) Selecting recipients most likely to be successful in delivering results based on the program objectives through an objective process of evaluating Federal award applications (2 CFR 200.205);

(b) Prohibiting the purchase of certain telecommunication and video surveillance services or equipment in alignment with section 889 of the National Defense Authorization Act of 2019 (Pub. L. 115–232) (2 CFR 200.216);

(c) Providing a preference, to the extent permitted by law, to maximize use of goods, products, and materials produced in the United States (2 CFR 200.322); and

(d) Terminating agreements in whole or in part to the greatest extent authorized by law if an award no longer effectuates the program goals or agency priorities (2 CFR 200.340).

## VI. Award Administration Information

1. *Award Notices*: If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements*: We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Open Licensing Requirements*: Unless an exception applies, if you are awarded a grant under this competition, you will be required to openly license to the public grant deliverables created in whole, or in part, with Department grant funds. When the deliverable consists of modifications to pre-existing works, the license extends only to those modifications that can be separately identified and only to the extent that open licensing is permitted under the

terms of any licenses or other legal restrictions on the use of pre-existing works. Additionally, a grantee or subgrantee that is awarded competitive grant funds must have a plan to disseminate these public grant deliverables. This dissemination plan can be developed and submitted after your application has been reviewed and selected for funding. For additional information on the open licensing requirements please refer to 2 CFR 3474.20.

4. *Reporting*: (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to [www.ed.gov/fund/grant/apply/appforms/appforms.html](http://www.ed.gov/fund/grant/apply/appforms/appforms.html).

5. *Performance Measures*: For purposes of the Government Performance and Results Act of 1993 and for Department reporting under 34 CFR 75.110, the Department has established the following performance measures for the IAL program: (1) The percentage of fourth graders participating in the project who demonstrated individual student growth (*i.e.*, an improvement in their achievement) over the past year on State reading or language arts assessments under section 1111(b)(2) of the ESEA; (2) the percentage of eighth graders participating in the project who demonstrated individual student growth (*i.e.*, an improvement in their achievement) over the past year on State reading or language arts assessments under section 1111(b)(2) of the ESEA; (3) the percentage of schools participating in the project whose book-to-student ratios increase from the previous year; and (4) the percentage of participating children who receive at least one free, grade- and language-appropriate book of their own.

All grantees will be expected to submit an annual performance report that includes data addressing these

performance measures to the extent that they apply to the grantee's project.

6. *Continuation Awards*: In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, whether the grantee has made substantial progress in achieving the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

## VII. Other Information

*Accessible Format*: On request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

*Electronic Access to This Document*: The official version of this document is the document published in the **Federal Register**. You may access the official edition of the **Federal Register** and the Code of Federal Regulations at [www.govinfo.gov](http://www.govinfo.gov). At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at [www.federalregister.gov](http://www.federalregister.gov). Specifically, through the advanced search feature at this site, you can limit

your search to documents published by the Department.

### Ian Rosenblum,

*Deputy Assistant Secretary for Policy and Programs Delegated the Authority to Perform the Functions and Duties of the Assistant Secretary, Office of Elementary and Secondary Education.*

[FR Doc. 2021-14763 Filed 7-9-21; 8:45 am]

**BILLING CODE 4000-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

*Docket Numbers*: ER10-1933-007; ER10-2615-014; ER11-2335-016; ER18-920-007.

*Applicants*: Marco DM Holdings, L.L.C., Plum Point Energy Associates, LLC, Plum Point Services Company, LLC, RockGen Energy LLC.

*Description*: Triennial Market Power Analysis for Central Region of RockGen Energy, LLC, et al.

*Filed Date*: 6/30/21.

*Accession Number*: 20210630-5369.

*Comments Due*: 5 p.m. ET 8/30/21.

*Docket Numbers*: ER10-2405-010.

*Applicants*: High Prairie Wind Farm II, LLC.

*Description*: Triennial Market Power Analysis for Central Region and Notice of Non-Material Change in Status of High Prairie Wind Farm II, LLC.

*Filed Date*: 6/30/21.

*Accession Number*: 20210630-5362.

*Comments Due*: 5 p.m. ET 8/30/21.

*Docket Numbers*: ER10-2718-038; ER10-2719-039.

*Applicants*: Cogen Technologies Linden Venture, L.P., East Coast Power Linden Holding, L.L.C.

*Description*: Notice of Non-Material Change in Status of Cogen Technologies Linden Venture, L.P., et al.

*Filed Date*: 6/30/21.

*Accession Number*: 20210630-5368.

*Comments Due*: 5 p.m. ET 7/21/21.

*Docket Numbers*: ER11-46-016; ER11-47-013; ER12-1400-008; ER12-1540-011; ER12-1541-011; ER12-1542-011; ER12-1544-011; ER12-2343-011; ER13-1896-017; ER14-594-015; ER14-868-002; ER16-323-010; ER17-1930-005; ER17-1931-005; ER17-1932-005; ER21-136-002.

*Applicants*: AEP Energy Partners, Inc., Appalachian Power Company, Flat Ridge 2 Wind Energy LLC, Indiana Michigan Power Company, Kentucky

Power Company, Kingsport Power Company, Wheeling Power Company, AEP Energy, Inc., AEP Generation Resources Inc., Ohio Power Company, AEP Retail Energy Partners, Ohio Valley Electric Corporation, Public Service Company of Oklahoma, AEP Texas Inc., Southwestern Electric Power Company, Flat Ridge 3 Wind Energy, LLC.

*Description*: Triennial Market Power Analysis for Southwest Power Pool, Inc. Region of AEP Energy Partners, Inc., et al.

*Filed Date*: 6/30/21.

*Accession Number*: 20210630-5365.

*Comments Due*: 5 p.m. ET 8/30/21.

*Docket Numbers*: ER16-1990-003; ER20-1996-002; ER21-1187-001; ER21-1188-001; ER21-1217-001; ER21-1218-001; ER21-1370-002.

*Applicants*: Assembly Solar I, LLC, Assembly Solar II, LLC, Dressor Plains Solar, LLC, Iris Solar, LLC, North Star Solar PV LLC, Prairie State Solar, LLC, St. James Solar, LLC.

*Description*: Triennial Market Power Analysis for Central Region of North Star Solar PV LLC, et al.

*Filed Date*: 6/30/21.

*Accession Number*: 20210630-5359.

*Comments Due*: 5 p.m. ET 8/30/21.

*Docket Numbers*: ER19-2434-001; ER19-2534-001.

*Applicants*: Citizens Energy Corporation, Citizens Imperial Solar LLC.

*Description*: Notice of Non-Material Change in Status of Citizens Imperial Solar LLC, et al.

*Filed Date*: 6/30/21.

*Accession Number*: 20210630-5367.

*Comments Due*: 5 p.m. ET 7/21/21.

*Docket Numbers*: ER20-67-002; ER20-113-002; ER20-116-002.

*Applicants*: Evergy Metro, Inc., Evergy Missouri West, Inc., Evergy Kansas Central, Inc.

*Description*: Triennial Market Power Analysis for Southwest Power Pool, Inc. Region of Evergy Kansas Central, Inc., et al.

*Filed Date*: 6/30/21.

*Accession Number*: 20210630-5363.

*Comments Due*: 5 p.m. ET 8/30/21.

*Docket Numbers*: ER20-681-003.

*Applicants*: Tri-State Generation and Transmission Association, Inc.

*Description*: Triennial Market Power Analysis for Southwest Power Pool, Inc. Region of Tri-State Generation and Transmission Association, Inc.

*Filed Date*: 6/30/21.

*Accession Number*: 20210630-5360.

*Comments Due*: 5 p.m. ET 8/30/21.

*Docket Numbers*: ER20-2429-001.

*Applicants*: Central Maine Power Company, ISO New England Inc.

*Description*: Compliance filing; Central Maine Power; Order No. 864

Comp.—Response to Staff Deficiency Letter to be effective 1/1/2018.

*Filed Date:* 7/6/21.

*Accession Number:* 20210706–5057.

*Comments Due:* 5 p.m. ET 7/27/21.

*Docket Numbers:* ER20–2446–004.

*Applicants:* Bitter Ridge Wind Farm, LLC.

*Description:* Compliance filing: Compliance filing for Docket ER20–2446 to be effective 9/29/2020.

*Filed Date:* 7/6/21.

*Accession Number:* 20210706–5058.

*Comments Due:* 5 p.m. ET 7/27/21.

*Docket Numbers:* ER20–2503–003.

*Applicants:* Paulding Wind Farm IV LLC.

*Description:* Compliance filing: Compliance filing for Docket No. ER20–2503 to be effective 9/22/2020.

*Filed Date:* 7/6/21.

*Accession Number:* 20210706–5061.

*Comments Due:* 5 p.m. ET 7/27/21.

*Docket Numbers:* ER20–2953–003.

*Applicants:* Lone Tree Wind, LLC.

*Description:* Compliance filing:

Compliance filing for Docket ER20–2953 to be effective 12/16/2020.

*Filed Date:* 7/6/21.

*Accession Number:* 20210706–5063.

*Comments Due:* 5 p.m. ET 7/27/21.

*Docket Numbers:* ER21–2349–000.

*Applicants:* AR Searcy Project Company, LLC.

*Description:* Baseline eTariff Filing: MBR Initial Application to be effective 9/1/2021.

*Filed Date:* 7/2/21.

*Accession Number:* 20210702–5095.

*Comments Due:* 5 p.m. ET 7/23/21.

*Docket Numbers:* ER21–2350–000.

*Applicants:* MS Sunflower Project Company, LLC.

*Description:* Baseline eTariff Filing: MBR Initial Application to be effective 9/1/2021.

*Filed Date:* 7/2/21.

*Accession Number:* 20210702–5096.

*Comments Due:* 5 p.m. ET 7/23/21.

*Docket Numbers:* ER21–2351–000.

*Applicants:* Entergy Services, LLC.

*Description:* § 205(d) Rate Filing:

Entergy Services, LLC to be effective 9/1/2021.

*Filed Date:* 7/2/21.

*Accession Number:* 20210702–5099.

*Comments Due:* 5 p.m. ET 7/23/21.

*Docket Numbers:* ER21–2352–000.

*Applicants:* Pacific Gas and Electric Company.

*Description:* § 205(d) Rate Filing: Amendment to PG&E Elkhorn Energy Storage LGIA (SA 379) to be effective 7/3/2021.

*Filed Date:* 7/2/21.

*Accession Number:* 20210702–5102.

*Comments Due:* 5 p.m. ET 7/23/21.

*Docket Numbers:* ER21–2353–000.

*Applicants:* Duke Energy Progress, LLC.

*Description:* Tariff Cancellation: DEP-Waynesville RS No. 185 Cancellation to be effective 9/1/2021.

*Filed Date:* 7/2/21.

*Accession Number:* 20210702–5105.

*Comments Due:* 5 p.m. ET 7/23/21.

*Docket Numbers:* ER21–2354–000.

*Applicants:* Entergy Services, LLC.

*Description:* Request for Limited Waivers and Clarification of Affiliate Rules of Entergy Services, LLC.

*Filed Date:* 7/2/21.

*Accession Number:* 20210702–5168.

*Comments Due:* 5 p.m. ET 7/23/21.

*Docket Numbers:* ER21–2355–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Original ISA, Service Agreement No. 6100; Queue No. AD2–076 to be effective 6/10/2021.

*Filed Date:* 7/6/21.

*Accession Number:* 20210706–5014.

*Comments Due:* 5 p.m. ET 7/27/21.

*Docket Numbers:* ER21–2356–000.

*Applicants:* Alabama Power Company.

*Description:* § 205(d) Rate Filing: Sandhills 2 Solar LGIA Filing to be effective 6/21/2021.

*Filed Date:* 7/6/21.

*Accession Number:* 20210706–5047.

*Comments Due:* 5 p.m. ET 7/27/21.

*Docket Numbers:* ER21–2357–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2021–07–06\_SA 3006 Duke-Jordan Creek 3rd Rev GIA (J515) to be effective 6/18/2021.

*Filed Date:* 7/6/21.

*Accession Number:* 20210706–5078.

*Comments Due:* 5 p.m. ET 7/27/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 6, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–14760 Filed 7–9–21; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. IC21–32–000]

#### Commission Information Collection Activities Ferc–917 and Ferc–918; Consolidated Comment Request; Extension

**AGENCY:** Federal Energy Regulatory Commission.

**ACTION:** Notice of information collections and request for comments.

**SUMMARY:** In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collections, FERC–917 (Electric Transmission Facilities) and FERC–918 (Standards for Business Practices and Communication Protocols for Public Utilities), both under OMB Control No. 1902–0233, which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements.

**DATES:** Comments on the collections of information are due September 10, 2021.

**ADDRESSES:** You may submit copies of your comments (identified by Docket No. IC21–32–000 and the specific FERC collection number (FERC–917 and/or FERC–918)) by one of the following methods:

Electronic filing through <http://www.ferc.gov>, is preferred.

- *Electronic Filing:* Documents must be filed in acceptable native applications and print-to-PDF, but not in scanned or picture format.

- For those unable to file electronically, comments may be filed by USPS mail or by hand (including courier) delivery:

- *Mail via U.S. Postal Service Only:*

Addressed to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

- *Hand (Including Courier) Delivery:*

Deliver to: Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852.

*Instructions:* All submissions must be formatted and filed in accordance with



submission guidelines at: <http://www.ferc.gov>. For user assistance, contact FERC Online Support by email at [ferconlinesupport@ferc.gov](mailto:ferconlinesupport@ferc.gov), or by phone at (866) 208-3676 (toll-free).

**Docket:** Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov>.

**FOR FURTHER INFORMATION CONTACT:**

Ellen Brown may be reached by email at [DataClearance@FERC.gov](mailto:DataClearance@FERC.gov), telephone at (202) 502-8663.

**SUPPLEMENTARY INFORMATION:**

**Title:** FERC-917, Electric Transmission Facilities and FERC-918, Standards for Business Practices and Communication Protocols for Public Utilities.

**OMB Control No.:** 1902-0233.

**Type of Request:** Three-year extension of the FERC-917 and FERC-918 information collection requirements with no changes to the reporting requirements.

**Type of Respondents:** Public utilities transmission providers.

**Abstract:** On February 17, 2007, the Commission issued Order No. 890 to address and remedy opportunities for undue discrimination under the *pro forma* Open Access Transmission Tariff (OATT) adopted in 1996 by Order No. 888.<sup>1</sup> Through Order No. 890, the Commission:

1. Adopted *pro forma* OATT provisions necessary to keep imbalance charges closely related to incremental costs.
2. Increased nondiscriminatory access to the grid by requiring public utilities, working through the North American Electric Reliability Corporation (NERC), to develop consistent methodologies for available transfer capability (ATC) calculation and to publish those methodologies to increase transparency.
3. Required an open, transparent, and coordinated transmission planning process thereby increasing the ability of customers to access new generating resources and promote efficient utilization of transmission.
4. Gave the right to customers to request from transmission providers,

studies addressing congestion and/or integration of new resource loads in areas of the transmission system where they have encountered transmission problems due to congestion or where they believe upgrades and other investments may be necessary to reduce congestion and to integrate new resources.

5. Required both the transmission provider's merchant function and network customers to include a statement with each application for network service or to designate a new network resource that attests, for each network resource identified, that the transmission customer owns or has committed to purchase the designated network resource and the designated network resource complies with the requirements for designated network resources. The network customer includes this attestation in the customer's comment section of the request when it confirms the request on the Open Access Same-Time Information System (OASIS).

6. Required with regard to capacity reassignment that: (a) All sales or assignments of capacity be conducted through or otherwise posted on the transmission provider's OASIS on or before the date the reassigned service commences; (b) assignees of transmission capacity execute a service agreement prior to the date on which the reassigned service commences; and (c) transmission providers aggregate and summarize in an electric quarterly report the data contained in these service agreements.

7. Adopted an operational penalties annual filing that provides information regarding the penalty revenue the transmission provider has received and distributed.

8. Required creditworthiness information to be included in a transmission provider's OATT. Attachment L must specify the qualitative and quantitative criteria that the transmission provider uses to determine the level of secured and unsecured credit required.

The Commission required a NERC/NAESB<sup>2</sup> team to draft and review Order No. 890 reliability standards and business practices. The team was to solicit comment from each utility on developed standards and practices and utilities were to implement each, after Commission approval. Public utilities, working through NERC, were to revise reliability standards to require the exchange of data and coordination among transmission providers and,

working through NAESB, were to develop complementary business practices. Required OASIS postings included:

1. Explanations for changes in ATC values;
2. Capacity benefit margin (CBM) reevaluations and quarterly postings;
3. OASIS metrics and accepted/denied requests;
4. Planning redispatch offers and reliability redispatch data;
5. Curtailment data;
6. Planning and system impact studies;
7. Metrics for system impact studies; and
8. All rules.

Incorporating the Order No. 890 standards into the Commission's regulations benefits wholesale electric customers by streamlining utility business practices, transactional processes, and OASIS procedures, and by adopting a formal ongoing process for reviewing and upgrading the Commission's OASIS standards and other electric industry business practices. These practices and procedures benefit from the implementation of generic industry standards.

The Commission's Order No. 890 regulations can be found in 18 CFR 35.28 (*pro forma* tariff requirements), and 37.6 and 37.7 (OASIS requirements). 18 CFR 35.28(b) states: "Audit data must remain available for download on the OASIS for 90 days, except ATC/TTC postings that must remain available for download on the OASIS for 20 days. The audit data are to be retained and made available upon request for download for five years from the date when they are first posted in the same electronic form as used when they originally were posted on the OASIS."

**Estimate of Annual Burden:**<sup>3</sup> The Commission estimates the annual public reporting burden for the information collections as follows. Please note, the zeroes for respondents and responses are based on having no filings of this type over the past four years. In addition, we estimate no filings during the next three years. The requirements remain in the regulations and are included as part of OMB Control Number 1902-0233.

<sup>3</sup> Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 CFR part 1320.

<sup>1</sup> *Promoting Wholesale Competition Through Open Access Non-discriminatory Transmission Services by Public Utilities; Recovery of Stranded Costs by Public Utilities and Transmitting Utilities*, Order No. 888, 61 FR 21540 (May 10, 1996), FERC Stats. & Regs. ¶ 31,036 (1996), *order on reh'g*, Order No. 888-A, 62 FR 12274 (Mar. 14, 1997), FERC Stats. & Regs. ¶ 31,048 (1997), *order on reh'g*, Order No. 888-B, 81 FERC ¶ 61,248 (1997), *order on reh'g*, Order No. 888-C, 82 FERC ¶ 61,046 (1998), *aff'd in relevant part sub nom. Transmission Access Policy Study Group v. FERC*, 225 F.3d 667 (D.C. Cir. 2000), *aff'd sub nom. New York v. FERC*, 535 U.S. 1 (2002).

<sup>2</sup> NAESB is the North American Energy Standards Board.

FERC-917 (ELECTRIC TRANSMISSION FACILITIES) AND FERC-918 (STANDARDS FOR BUSINESS PRACTICES AND COMMUNICATION PROTOCOLS FOR PUBLIC UTILITIES)

	Number of respondents (1)	Annual number of responses per respondent (2)	Annual number of responses (1) * (2) = (3)	Average annual burden hrs. & cost <sup>4</sup> per response (\$) (4)	Total average annual burden hours & total annual cost <sup>5</sup> (\$) (3) * (4) = (5)	Average annual cost per respondent (\$) (5) ÷ (1) = (6)
<b>18 CFR 35.28 (FERC-917)</b>						
Conforming tariff changes (Reporting)	20	1	20	20 hrs.; \$1,460 .....	400 hrs.; \$29,200 .....	\$1,460
Revision of Imbalance Charges (Reporting).	21	1	21	25 hrs.; \$1,825 .....	525 hrs.; \$38,325 .....	1,825
ATC revisions (Reporting) .....	11	1	11	20 hrs.; \$1,460 .....	220 hrs.; \$16,060 .....	1,460
Planning (Attachment K) (Reporting) <sup>6</sup>	162	1	162	100 hrs., \$7,300 .....	16,200 hrs., \$1,182,600 ...	7,300.00
Congestion studies (Reporting) .....	162	1	162	300 hrs., \$21,900 .....	48,600 hrs., \$3,547,800 ...	21,900.00
Attestation of network resource commitment (Reporting).	162	1	162	1 hr., \$73 .....	162 hrs., \$11,826 .....	73.00
Capacity reassignment (Reporting) .....	162	1	162	100 hrs., \$7,300 .....	16,200 hrs., \$1,182,600 ...	7,300.00
Operational Penalty annual filing (Record Keeping) <sup>7</sup> .	162	1	162	10 hrs., \$358.30 .....	1,620 hrs., \$58,044.60 ....	358.30
Creditworthiness—include criteria in the tariff (Reporting) <sup>8</sup>						
FERC-917, Sub-Total of Record Keeping Requirements.					1,620 hrs., \$58,044.60	
FERC-917, Sub-Total of Reporting Requirements.					132,527 hrs., \$6,008,411	
FERC-917—Sub Total of Reporting and Recordkeeping Requirements.					134,147 hrs., \$6,066,455.60	
<b>18 CFR 37.6 &amp; 37.7 (FERC-918)</b>						
Implementation by each utility <sup>9</sup> (Reporting)						
NERC/NAESB Team to develop (Reporting)						
Review and comment by utility (Reporting)						
Mandatory data exchanges (Reporting).	162	1	162	80 hrs., \$5,840 .....	12,960 hrs., \$946,080 .....	5,840.00
Explanation of change of ATC values (Reporting).	162	1	162	100 hrs., \$7,300.00 .....	16,200 hrs., \$1,182,600 ...	7,300.00
Reevaluate CBM and post quarterly (Record Keeping).	162	1	162	20 hrs., \$716.60 .....	3,240 hrs., \$116,089.20 ...	716.60
Post OASIS metrics; requests accepted/denied (Reporting).	162	1	162	90 hrs., \$6,570 .....	14,580 hrs., \$1,064,340 ...	6,570.00
Post planning redispatch offers and reliability redispatch data (Record Keeping).	162	1	162	20 hrs., \$716.60 .....	3,240 hrs., \$116,089.20 ...	716.60
Post curtailment data (Reporting) .....	162	1	162	1 hr., \$73.00 .....	162 hrs., \$11,826 .....	73.00
Post Planning and System Impact Studies (Reporting).	162	1	162	5 hrs., \$365.00 .....	810 hrs., \$59,130 .....	365.00
Posting of metrics for System Impact Studies (Reporting).	162	1	162	100 hrs., \$7,300.00 .....	16,200 hrs., \$1,182,600 ...	7,300.00
Post all rules to OASIS (Record Keeping).	162	1	162	5 hrs., \$179.15 .....	810 hrs., \$29,022.30 .....	179.15
FERC-918, Sub-Total of Record Keeping Requirements.					7,290 hrs., \$261,200.70	
FERC-918 Sub-Total of Reporting Requirements.					60,912 hrs., \$4,446,576	
FERC-918—Sub Total of Reporting and Recordkeeping Requirements.					68,202 hrs., \$4,707,776.70	
Total FERC-917 and FERC-918 (Reporting and Recordkeeping Requirements).					202,349 hrs., \$10,774,232.30	

Comments: Comments are invited on:  
(1) Whether the collections of

<sup>4</sup> The estimated hourly cost (salary plus benefits) provided in this section is based on the salary figures for March 2021 posted by the Bureau of Labor Statistics for the Utilities sector and benefits based on BLS report; issued June 17, 2021 Employer Costs for Employee Compensation Summary (available at <https://www.bls.gov/news.release/>)

*eeec.nr0.htm*). The hourly rates are displayed below:

*Legal* (Occupation Code: 23-0000): \$142.25.  
*Management Analyst* (Occupation Code: 13-1111): \$68.39.  
*Office and Administrative Support* (Occupation Code: 43-000): \$44.47.  
*Electrical Engineer* (Occupation Code: 17-2071): \$72.15.

*Information Security Analyst* (Occupation Code: 15-1122): \$73.57.

*File Clerk* (Occupation Code: 43-4071): \$35.83.  
The skill sets are assumed to contribute equally, so the hourly cost is an average [(\$142.25 + \$68.39 + \$44.47 + \$72.15 + \$73.57 + 35.83) ÷ 6 = \$72.78]. The figure is rounded to \$73.00 per hour.

<sup>5</sup> In the last renewal of FERC-917/918 (ICR Ref. No. 201802-1902-002), included a \$7,400,000 cost

information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: July 6, 2021.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2021-14715 Filed 7-9-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-2350-000]

#### **MS Sunflower Project Company, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of MS Sunflower Project Company, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of

for off-site storage facility for record keeping. This cost was not related to burden hours, rather an annual estimate of the fees related to offsite storage. This cost has been removed as all recordkeeping is retained electronically per 18 CFR 37.7(b) states: "Audit data must remain available for download on the OASIS for 90 days, except ATC/TTC postings that must remain available for download on the OASIS for 20 days. The audit data are to be retained and made available upon request for download for five years from the date when they are first posted in the same electronic form as used when they originally were posted on the OASIS."

<sup>6</sup>The increase in the number of responses 132 (from OMB's currently approved inventory for FERC-917/918) to 162 is based on the increased number of companies subject to compliance and changes in the last few years as identified by the NERC registry.

<sup>7</sup>While we are using the averaged hourly rate for the majority of the calculations, all recordkeeping tasks are solely completed by a file clerk at \$35.83/hour.

<sup>8</sup>As noted, above the table, the zeroes for respondents and responses are based on having no filings of this type over the past four years.

<sup>9</sup>ATC-related standards include: Implementation by each utility (Reporting), NERC/NAESB Team to develop (Reporting), and Review and comment by utility (Reporting).

future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 26, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: July 6, 2021.

**Debbie-Anne A. Reese,**  
*Deputy Secretary.*

[FR Doc. 2021-14762 Filed 7-9-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. ER21-2349-000]

#### **AR Searcy Project Company, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization**

This is a supplemental notice in the above-referenced proceeding of AR Searcy Project Company, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is July 26, 2021.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TTY, (202) 502-8659.

Dated: July 6, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021-14759 Filed 7-9-21; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 12758-007]

#### **BOST5 Hydroelectric LLC; Notice of Application for Amendment of License, Soliciting Comments, Motions To Intervene, and Protests**

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* Application for non-capacity amendment of license.

b. *Project No.:* 12758-007.

c. *Date Filed:* February 9, 2021, as supplemented on February 22, 2021.

d. *Licensee:* BOST5 Hydroelectric LLC.

e. *Name of Project:* Red River Lock and Dam No. 5 Hydroelectric Project.

f. *Location:* The project is located at the U.S. Army Corps of Engineers' (Corps) Lock and Dam No. 5, on the Red River near the town of Ninock, in Bossier Parish, Louisiana.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Licensee Contact:* Douglas A. Spaulding, P.E., Nelson Energy LLC, 8441 Wayzata Blvd., Suite 101, Golden Valley, MN 55426, (952) 544-8133.

i. *FERC Contact:* Christopher Chaney, (202) 502-6778, [christopher.chaney@ferc.gov](mailto:christopher.chaney@ferc.gov).

j. *Deadline for filing comments, interventions, and protests:* Deadline for filing comments, motions to intervene, and protests is 30 days from the issuance of this notice by the Commission.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at <http://www.ferc.gov/docs-filing/efiling.asp>. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at <http://www.ferc.gov/docs-filing/ecomment.asp>. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), (866) 208-3676 (toll free), or (202) 502-8659 (TTY). In lieu of electronic filing, you may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426. Submissions sent via any other carrier must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, MD 20852. The first page of any filing should include docket number P-12758-007. Comments emailed to Commission staff are not considered part of the Commission record.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee proposes certain design changes to the project; however, the authorized installed capacity would remain as licensed. The licensee proposes to: (1) Install five 5.63-megawatt (MW) Kaplan bulb turbine-generator units, instead of one 28.1-MW unit; (2) shift the powerhouse location approximately 300 feet, and change the footprint from 301 feet long by 90 feet wide to 204 feet long by 153 feet wide; (3) shift the location of the Corps' recreation facilities the licensee is required to reconstruct from downstream to upstream of the dam; and (4) reduce the project's total

hydraulic capacity from 18,486 cubic feet per second (cfs) to 17,650 cfs.

l. *Locations of the Application:* This filing may be viewed on the Commission's website at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502-8659. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE" as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: July 6, 2021.

**Kimberly D. Bose,**  
*Secretary.*

[FR Doc. 2021-14718 Filed 7-9-21; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. AC21-141-000]

**Duke Energy Florida, LLC ; Notice of Petition for Limited Waiver**

Take notice that on July 1, 2021, pursuant to Rule 207(a)(5) of the Federal Energy Regulatory Commission's (Commission) Rules and Regulations,<sup>1</sup> Duke Energy Florida, LLC filed a petition for a limited duration waiver of Distribution Expense Account 593, Maintenance of overhead lines (Major only) of the Commission's Uniform System of Accounts, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (<http://www.ferc.gov>) using the "eLibrary" link. Enter the docket number excluding the last three digits in the docket number field to access the document. At this time, the Commission has suspended access to the Commission's Public Reference Room, due to the proclamation declaring a National Emergency concerning the Novel Coronavirus Disease (COVID-19), issued by the President on March 13, 2020. For assistance, contact the Federal Energy Regulatory Commission at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502-8659.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy

Regulatory Commission, 888 First Street NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

*Comment Date:* 5:00 p.m. Eastern time on July 16, 2021.

Dated: July 6, 2021.

**Kimberly D. Bose,**

*Secretary.*

[FR Doc. 2021-14720 Filed 7-9-21; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****Combined Notice of Filings**

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

*Docket Numbers:* RP21-934-000.

*Applicants:* Equitrans, L.P.

*Description:* § 4(d) Rate Filing: Negotiated Rate Capacity Release Agreements—7/1/2021 to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5000.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-935-000.

*Applicants:* Alliance Pipeline L.P.

*Description:* § 4(d) Rate Filing: Negotiated Rates—Various July 1 Capacity Releases to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5001.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-936-000.

*Applicants:* Rover Pipeline LLC.

*Description:* § 4(d) Rate Filing: Summary of Negotiated Rate Capacity Release Agreements on 7-1-21 to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5009.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-937-000.

*Applicants:* Sea Robin Pipeline Company, LLC.

*Description:* § 4(d) Rate Filing: Update Flowthrough Crediting Mechanism to be effective 8/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5023.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-938-000.

*Applicants:* WTG Hugoton, LP.

*Description:* § 4(d) Rate Filing: Annual Fuel Retention Percentage Filing 2021-2022 to be effective 8/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5038.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-939-000.

*Applicants:* Algonquin Gas

Transmission, LLC.

*Description:* § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 7-1-2021 to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5048.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-940-000.

*Applicants:* Maritimes & Northeast Pipeline, L.L.C.

*Description:* § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 7-1-2021 to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5053.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-941-000.

*Applicants:* Nautilus Pipeline Company, L.L.C.

*Description:* § 4(d) Rate Filing: Negotiated Rate—Talos ERT 630204 eff 7-1-2021 to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5084.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-942-000.

*Applicants:* West Texas Gas, Inc. *Description:* Annual Purchased Gas Cost Reconciliation Report of West Texas Gas, Inc. under RP21-942.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5137.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-943-000.

*Applicants:* NEXUS Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing: Negotiated Rates—Various Releases eff 07-01-2021 to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5138.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-944-000.

*Applicants:* Texas Eastern Transmission, LP.

*Description:* § 4(d) Rate Filing: Negotiated Rates—Release eff 07-01-2021 to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5141.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-945-000.

*Applicants:* Pine Needle LNG Company, LLC.

*Description:* § 4(d) Rate Filing: Clean-Up Filing\_2021\_Title Page to be effective 8/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701-5165.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21-946-000.

*Applicants:* El Paso Natural Gas Company, L.L.C.

<sup>1</sup> 18 CFR 385.207(a)(2) (2020).

*Description:* § 4(d) Rate Filing: Negotiated Rate Agreements Update (Devon) to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701–5166.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21–947–000.

*Applicants:* Transcontinental Gas Pipe Line Company, LLC.

*Description:* § 4(d) Rate Filing: Clean-Up Filing\_2021\_Title Page to be effective 8/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701–5168.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21–948–000.

*Applicants:* Transcontinental Gas Pipe Line Company, LLC.

*Description:* § 4(d) Rate Filing: Clean-Up Filing\_2021\_Title Page to be effective 8/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701–5169.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21–949–000.

*Applicants:* LA Storage, LLC.

*Description:* § 4(d) Rate Filing: Filing of Negotiated Rate, Conforming IW Agreements 7.1.21 to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701–5174.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21–950–000.

*Applicants:* Gulf South Pipeline Company, LLC.

*Description:* § 4(d) Rate Filing: Cap Rel Neg Rate Agmts (Marathon 51753 to Spire 54175) to be effective 7/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701–5207.

*Comments Due:* 5 p.m. ET 7/13/21.

*Docket Numbers:* RP21–951–000.

*Applicants:* Tennessee Gas Pipeline Company, LLC.

*Description:* § 4(d) Rate Filing: Volume No. 2—McGlobal Gas Corporation SP331391 & SP326294 to be effective 8/1/2021.

*Filed Date:* 7/1/21.

*Accession Number:* 20210701–5258.

*Comments Due:* 5 p.m. ET 7/13/21.

The filings are accessible in the Commission's eLibrary system (<https://elibrary.ferc.gov/idmws/search/fercgensearch.asp>) by querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: July 6, 2021.

**Debbie-Anne A. Reese,**

*Deputy Secretary.*

[FR Doc. 2021–14761 Filed 7–9–21; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–OPP–2021–0409; FRL–8657–01–OCSPF]**

### Petition To Cancel Seresto Registration; Notice of Availability

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** EPA seeks public comment on a April 8, 2021 petition from the Center for Biological Diversity (CBD) requesting that the Agency cancel the registration of insecticide product PNR1427, more commonly known by its brand name Seresto (EPA Registration No. 11556–155), pursuant to Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and pending such requested cancellation, to suspend Seresto's registration pursuant to FIFRA. A copy of the petition is available at [www.regulations.gov](https://www.regulations.gov) in docket ID EPA–HQ–OPP–2021–0409.

**DATES:** Comments, identified by docket identification (ID) number EPA–HQ–OPP–2021–0409, must be received on or before September 10, 2021.

**ADDRESSES:** Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2021–0409 by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC) (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, are available at <http://www.epa.gov/dockets>.

Due to the public health concerns related to COVID–19, the EPA Docket Center (EPA/DC) and Reading Room are closed to public visitors with limited exceptions. The staff continues to provide remote customer service via email, phone, and webform. For the latest status information on EPA/DC services and docket access, visit <https://www.epa.gov/dockets>.

**FOR FURTHER INFORMATION CONTACT:** Rachel Fletcher, Pesticide Re-evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (703) 347–0512; fax number: (703) 308–8090; email address: [fletcher.rachel@epa.gov](mailto:fletcher.rachel@epa.gov).

### SUPPLEMENTARY INFORMATION:

#### I. General Information

##### A. Does this action apply to me?

This action is directed to the public in general and may be of interest to those involved with pesticide manufacture, sale, or use; to a member or affiliate of a veterinarian interest group, an animal welfare interest group, an environmental interest group, or a public health interest group; to federal, state, or local regulatory partners; or to a member of the general public interested in the manufacture, sale, or use of pesticides (including pet medications). Given the broad interest, the Agency has not attempted to identify or describe all the specific entities that may be affected by this action.

The following list of North American Industry Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Pesticide and Other Agricultural Chemical Manufacturing (NAICS code 325320).
- Pet and Pet Supplies Stores (NAICS code 453910).
- Pet Care (except Veterinary) Services (NAICS code 812910).
- Veterinarians' medicines merchant wholesalers (NAICS code 424210).
- Veterinary Services (NAICS code 541940).

*B. What should I consider as I prepare my comments for EPA?*

1. *Submitting CBI.* Do not submit this information to EPA through [www.regulations.gov](https://www.regulations.gov) or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to the complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

*C. How can I get copies of this document and other related information?*

A copy of the CBD's Petition, "Re: Petition to Cancel Registration of PNR1427 (Brand Name Seresto) under the Federal Insecticide, Fungicide, and Rodenticide Act; Reg. No. 11556-155", is available in the docket under docket identification (ID) number EPA-HQ-OPP-2021-0409.

**II. What does this action do?**

EPA seeks public comment during the next 60 days on a petition received from the CBD requesting that the Agency cancel the Seresto registration, and to suspend Seresto's registration pending such requested cancellation. The petition was submitted under the Administrative Procedure Act (APA), 5 U.S.C. 553(e). The petition argues that Seresto must be cancelled because it poses an unreasonable risk to human health, pets, and the environment. The petition states that, "according to a recent aggregate incident summary report, since this product was introduced in 2012, EPA has received over 75,000 adverse incident reports, including at least 1,698 reports linking the use of this product to pet deaths and at least 700 involving human harm." CBD asserts that the incidents pose unreasonable adverse effects under FIFRA, and that "cancellation of this product is not only warranted but essential for protecting public health, consumers, imperiled wildlife, and companion animals."

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2021-0409 is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), EPA West Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. Please note that due to the public health emergency the EPA Docket Center (EPA/DC) and Reading Room was closed to public visitors on March 31, 2020. Our EPA/DC staff will continue to provide customer service via email, phone, and webform. For further information on EPA/DC services, docket contact information and the current status of the EPA/DC and Reading Room, please visit <https://www.epa.gov/dockets>.

**Authority:** 7 U.S.C. 136 *et seq.*

Dated: July 6, 2021.

**Mary Reaves,**

Director, Pesticide Re-Evaluation Division,  
Office of Pesticide Programs.

[FR Doc. 2021-14677 Filed 7-9-21; 8:45 am]

**BILLING CODE 6560-50-P**

**FEDERAL COMMUNICATIONS COMMISSION**

[FRS 36948]

**Ending 9-1-1 Fee Diversion Now Strike Force Meeting**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the Federal Communications Commission (Commission) announces and provides a preliminary agenda for the second meeting of the "Ending 9-1-1 Fee Diversion Now Strike Force" (911 Strike Force).

**DATES:** Monday, August 2, 2021, beginning at 10 a.m. EDT.

**ADDRESSES:** Federal Communications Commission, 45 L Street NE, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** John A. Evanoff, Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418-0848; or Jill Coogan, Deputy Designated Federal Officer, Federal Communications Commission, Public Safety and Homeland Security Bureau, (202) 418-1499; or email: [911StrikeForce@fcc.gov](mailto:911StrikeForce@fcc.gov).

**SUPPLEMENTARY INFORMATION:**

*Proposed Agenda:* The agenda for the August 2, 2021, meeting will consist of

briefings by the 911 Strike Force working groups. This agenda may be modified at the discretion of the 911 Strike Force Chair and the Designated Federal Officer. The August 2, 2021, meeting will be held in a wholly electronic format to accommodate continuing public health precautions related to the coronavirus (COVID-19) pandemic.

The August 2, 2021, meeting will be open to members of the general public via live broadcast over the internet from the FCC Live web page at <http://www.fcc.gov/live/>. The public may also follow the meeting on *Twitter @fcc* or via the Commission's Facebook page at [www.facebook.com/fcc](http://www.facebook.com/fcc). Members of the public may submit any questions that arise during the meeting to [livequestions@fcc.gov](mailto:livequestions@fcc.gov).

Open captioning will be provided for the live stream. Other reasonable accommodations for people with disabilities are available upon request. To request an accommodation, or for materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer and Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include a way for the Commission to contact the requester if more information is needed to fulfill the request. Please allow at least five days' advance notice; last-minute requests will be accepted but may not be possible to accommodate.

Federal Communications Commission.

**Marlene Dortch,**  
Secretary.

[FR Doc. 2021-14727 Filed 7-9-21; 8:45 am]

**BILLING CODE 6712-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

[OMB 3060-1095; FR ID 36589]

**Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or

Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s). Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

**DATES:** Written comments should be submitted on or before September 10, 2021. If you anticipate that you will be submitting comments but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

**ADDRESSES:** Direct all PRA comments to Cathy Williams, FCC, via email to [PRA@fcc.gov](mailto:PRA@fcc.gov) and to [Cathy.Williams@fcc.gov](mailto:Cathy.Williams@fcc.gov).

**FOR FURTHER INFORMATION CONTACT:** For additional information about the information collection, contact Cathy Williams at (202) 418-2918.

**SUPPLEMENTARY INFORMATION:**  
OMB Control No.: 3060-1095.

*Title:* Surrenders of Authorizations for International Carrier, Space Station and Earth Station Licensees.

*Form No.:* N/A.

*Type of Review:* Extension of a currently approved collection.

*Respondents:* Business or other for-profit entities.

*Number of Respondents:* 8 respondents; 8 responses.

*Estimated Time per Response:* 1 hour.

*Frequency of Response:* On occasion reporting requirement.

*Obligation to Respond:* Voluntary.

The statutory authority for this information collection is contained in Sections 4(i), 7(a), 11, 303(c), 303(f), 303(g), and 303(r) of the Communications Act of 1934, as amended; 47 U.S.C. 154(i), 157(a), 161, 303(c), 303(f), 303(g), and 303(r).

*Total Annual Burden:* 8 hours.

*Annual Cost Burden:* None.

*Privacy Act Impact Assessment:* No impact(s).

*Nature and Extent of Confidentiality:*

In general, there is no need for confidentiality with its collection of information.

*Needs and Uses:* This collection will be submitted to the Office of Management and Budget (OMB) as an extension after this 60-day comment period has ended in order to obtain the full three-year clearance from OMB. There are no changes in the number of respondents, responses, annual burden hours and total annual costs.

Licensees file surrenders of authorizations with the Commission on a voluntary basis. This information is used by Commission staff to issue Public Notices to announce the surrenders of authorization to the general public. The Commission's release of Public Notices is critical to keeping the general public abreast of the licensees' discontinuance of telecommunications services.

Without this collection of information, licensees would be required to submit surrenders of authorizations to the Commission by letter which is more time consuming than submitting such requests to the Commission electronically. In addition, Commission staff would spend an extensive amount of time processing surrenders of authorizations received by letter. The collection of information saves time for both licensees and Commission staff since they are received in IBFS electronically and include only the information that is essential to process the requests in a timely manner. Furthermore, the E-filing module expedites the Commission staff's announcement of surrenders of authorizations via Public Notice.

Federal Communications Commission.

**Marlene Dortch,**

*Secretary.*

[FR Doc. 2021-14725 Filed 7-9-21; 8:45 am]

**BILLING CODE 6712-01-P**

**FEDERAL COMMUNICATIONS COMMISSION**

[FR ID 37205]

**Open Commission Meeting, Tuesday, July 13, 2021**

July 6, 2021.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday July 13, 2021, which is scheduled to commence at 10:30 a.m.

Due to the current COVID-19 pandemic and related agency telework and headquarters access policies, this meeting will be in a wholly electronic format and will be open to the public on the internet via live feed from the FCC's web page at [www.fcc.gov/live](http://www.fcc.gov/live) and on the FCC's YouTube channel.

Item No.	Bureau	Subject
1 .....	WIRELINE COMPETITION .....	<i>TITLE:</i> Protecting Against National Security Threats to the Communications Supply Chain Through FCC Programs (WC Docket No. 18-89). <i>SUMMARY:</i> The Commission will consider a Third Report and Order that would amend the rules for the Secure and Trusted Communications Networks Reimbursement Program consistent with modifications adopted by Congress in the Consolidated Appropriations Act, 2021. The item would also clarify certain aspects of the Reimbursement Program.
2 .....	OFFICE OF ENGINEERING AND TECHNOLOGY.	<i>TITLE:</i> Amendment of Section 15.255 of the Commission's Rules (ET Docket No. 21-264). <i>SUMMARY:</i> The Commission will consider a Notice of Proposed Rulemaking proposing revisions to Section 15.255 of the rules governing short range radar operations in the 64-71 GHz frequency band.
3 .....	MEDIA .....	<i>TITLE:</i> Updating Broadcast Radio Technical Rules (MB Docket No. 21-263). <i>SUMMARY:</i> The Commission will consider a Notice of Proposed Rulemaking to eliminate or amend outmoded or unnecessary broadcast technical rules.



Item No.	Bureau	Subject
4 .....	INTERNATIONAL .....	<i>TITLE:</i> Mandatory Electronic Filing of Section 325(c) Applications, International Broadcast Applications, and Dominant Carrier Section 63.10(c) Quarterly Reports (IB Docket No. 21–265). <i>SUMMARY:</i> The Commission will consider an Order that would amend rules to require the remaining applications and reports to be filed electronically in the International Bureau Filing System (IBFS) and eliminate duplicative paper filing requirements.
5 .....	ENFORCEMENT .....	<i>TITLE:</i> Enforcement Bureau Action. <i>SUMMARY:</i> The Commission will consider an enforcement action.
6 .....	WIRELESS TELE-COMMUNICATIONS ..	<i>TITLE:</i> Promoting Technological Solutions to Combat Contraband Wireless Device Use in Correctional Facilities (GN Docket No. 13–111). <i>SUMMARY:</i> The Commission will consider a Second Report and Order taking steps to combat contraband wireless devices in correctional facilities and Second Further Notice of Proposed Rulemaking seeking comment on additional technological solutions to combat contraband device usage in correctional facilities.

\* \* \* \* \*

The meeting will be webcast with open captioning at: [www.fcc.gov/live](http://www.fcc.gov/live). Open captioning will be provided as well as a text only version on the FCC website. Other reasonable accommodations for people with disabilities are available upon request. In your request, include a description of the accommodation you will need and a way we can contact you if we need more information. Last minute requests will be accepted but may be impossible to fill. Send an email to: [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at 202–418–0530.

Additional information concerning this meeting may be obtained from the Office of Media Relations, (202) 418–0500. Audio/Video coverage of the meeting will be broadcast live with open captioning over the internet from the FCC Live web page at [www.fcc.gov/live](http://www.fcc.gov/live).

Federal Communications Commission.  
**Marlene Dortch,**  
*Secretary.*

[FR Doc. 2021–14723 Filed 7–9–21; 8:45 am]  
BILLING CODE 6712–01–P

**FEDERAL ELECTION COMMISSION**

**Sunshine Act Meeting**

**TIME AND DATE:** Thursday, July 15, 2021 at 10:00 a.m.

**PLACE:** Virtual meeting. Note: because of the covid-19 pandemic, we will conduct the open meeting virtually. If you would like to access the meeting, see the instructions below.

**STATUS:** This meeting will be open to the public. To access the virtual meeting, go to the commission’s website [www.fec.gov](http://www.fec.gov) and click on the banner to be taken to the meeting page.

**MATTERS TO BE CONSIDERED:**

Draft Advisory Opinion 2021–06: Representative Robin Kelly and the Democratic Party of Illinois  
Draft Advisory Opinion 2021–07: PAC Management Services LLC (“PACMS”)  
Management and Administrative Matters

**CONTACT PERSON FOR MORE INFORMATION:** Judith Ingram, Press Officer, Telephone: (202) 694–1220.

**Authority:** Government in the Sunshine Act, 5 U.S.C. 552b.

**Laura E. Sinram,**  
*Acting Secretary and Clerk of the Commission.*

[FR Doc. 2021–14899 Filed 7–8–21; 4:15 pm]

BILLING CODE 6715–01–P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

**Solicitation of Nominations for Appointment to the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHACHSPT)**

**ACTION:** Notice.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC) is seeking nominations for membership on the CDC/HRSA Advisory Committee on HIV, Viral Hepatitis and STD Prevention and Treatment (CHACHSPT). The CHACHSPT consists of 18 experts in fields associated with public health; epidemiology; laboratory practice; immunology; infectious diseases; drug abuse; behavioral science; health education; healthcare delivery; state health programs; clinical care; preventive health; medical education; health services and clinical research;

and healthcare financing, who are selected by the Secretary of the U.S. Department of Health and Human Services (HHS).

**DATES:** Nominations for membership on the CHACHSPT must be received no later than August 31, 2021. Packages received after this time will not be considered for the current membership cycle.

**ADDRESSES:** All nominations should be electronically mailed to [nchhstppolicy@cdc.gov](mailto:nchhstppolicy@cdc.gov).

**FOR FURTHER INFORMATION CONTACT:** Staci Morris, M.S., Committee Management Specialist, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, CDC, Atlanta, Georgia 30329–4027; Telephone: (404) 718–7479; [nchhstppolicy@cdc.gov](mailto:nchhstppolicy@cdc.gov).

**SUPPLEMENTARY INFORMATION:** The Secretary of HHS, and by delegation, the CDC Director and the HRSA Administrator, are authorized by the PHS Act to: (1) Conduct, encourage, cooperate with, and assist other appropriate public health authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies related to the cases, diagnosis, treatment, control, and prevention of physical and mental diseases, and other impairments; (2) assist states and their political subdivisions in preventing, suppressing, and treating communicable diseases and other preventable conditions and in promoting health and well-being; (3) assist public and non-profit private entities in preventing, controlling and treating sexually transmitted diseases (STDs), including the Human Immunodeficiency Virus (HIV); (4) improve health and achieve health equity through access to quality services and a skilled health workforce and innovative programs; (5) support healthcare services to persons living with or at risk for HIV, viral hepatitis,

and other STDs; and (6) advance the education of health professionals and the public from HIV, viral hepatitis, and other STDs.

The CDC/HRSA Advisory Committee on HIV and STD Prevention and Treatment meets at least two times each calendar year, or at the discretion of the Designated Federal Officer in consultation with the CHACHSPT co-chairs.

The CDC/HRSA Advisory Committee on HIV and STD Prevention and Treatment shall advise the Director, CDC, and the Administrator, HRSA, regarding objectives, strategies, policies, and priorities for HIV, viral hepatitis, and other STD prevention and treatment efforts, including surveillance of HIV infection, Acquired Immunodeficiency Syndrome (AIDS), viral hepatitis, other STDs, and related behaviors; epidemiologic, behavioral, health services, and laboratory research on HIV, viral hepatitis, and other STDs; identification of policy issues related to HIV/viral hepatitis/STD professional education, patient healthcare delivery, and prevention services; agency policies about prevention of HIV, viral hepatitis and other STDs, treatment, healthcare delivery, and research and training; strategic issues influencing the ability of CDC and HRSA to fulfill their missions of providing prevention and treatment services; programmatic efforts to prevent and treat HIV, viral hepatitis, and other STDs; and support to the agencies in their development of responses to emerging health needs related to HIV, viral hepatitis and other STDs.

Nominations are being sought for individuals who have expertise and qualifications necessary to contribute to the accomplishments of the committee's objectives. Nominees will be selected based on expertise in the fields of public health; epidemiology; laboratory practice; immunology; infectious diseases; drug abuse; behavioral science; health education; healthcare delivery; state health programs; clinical care; preventive health; medical education; health services and clinical research; and healthcare financing. The Committee shall also include representation of persons with HIV and other affected populations; state and local health and education agencies; HIV/viral hepatitis/STD community-based organizations; and the ethics or faith-based community. Federal employees will not be considered for membership. Members may be invited to serve for up to four-year terms.

Selection of members is based on candidates' qualifications to contribute to the accomplishment of CHACHSPT

objectives. The U.S. Department of Health and Human Services policy stipulates that committee membership be balanced in terms of points of view represented, and the committee's function. Appointments shall be made without discrimination on the basis of age, race, ethnicity, gender, sexual orientation, gender identity, HIV status, disability, and cultural, religious, or socioeconomic status. Nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Current participation on federal workgroups or prior experience serving on a federal advisory committee does not disqualify a candidate; however, HHS policy is to avoid excessive individual service on advisory committees and multiple committee memberships. Committee members are Special Government Employees (SGEs), requiring the filing of financial disclosure reports at the beginning and annually during their terms. Individuals who are selected for appointment will be required to provide detailed information regarding their financial interests and, for example, any work they do for the federal government through research grants or contracts. Disclosure of this information is required in order for CDC ethics officials to determine whether there is a conflict between the SGE's public duties as members of CHACHSPT and their private interests, including an appearance of a loss of impartiality as defined by federal laws and regulations, and to identify any required remedial action needed to address the potential conflict. CDC reviews potential candidates for CHACHSPT membership when a vacancy arises and provides a slate of nominees for consideration to the Secretary of HHS for final selection. HHS notifies selected candidates of their appointment near the start of the term in December 1, 2021, or as soon as the HHS selection process has been completed. Note that the need for different expertise varies from year to year and a candidate who is not selected for an open position may be reconsidered for a subsequent open position. SGE nominees must be U.S. citizens, and cannot be full-time employees of the U.S. Government. Candidates should submit the following items:

- Current curriculum vitae or resume, including complete contact information (telephone numbers, mailing address, email address).
- At least one letter of recommendation from person(s) not employed by the U.S. Department of Health and Human Services.

(Candidates may submit letters(s) from current HHS employees if they wish, but at least one letter must be submitted by a person not employed by an HHS agency (e.g., CDC, NIH, FDA, etc.).

- A biographical sketch of the nominee (500 words or fewer).
- A letter of interest or personal statement from the nominee stating how their expertise would inform the work of CHACHSPT.

Nominations may be submitted directly by the individual seeking nomination or by the person/organization recommending the candidate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2021-14686 Filed 7-9-21; 8:45 am]

**BILLING CODE 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

**[60Day-21-21GH; Docket No. CDC-2021-0065]**

**Proposed Data Collection Submitted for Public Comment and Recommendations**

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Using Real-time Prescription and Insurance Claims Data to Support the HIV Care Continuum. This proposed collection will collect data to evaluate

the efficacy of using administrative insurance and prescription claims (billing) data to identify and intervene upon persons with HIV who fail to fill antiretroviral (ARV) prescriptions.

**DATES:** CDC must receive written comments on or before September 10, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2021–0065 by any of the following methods:

- *Federal eRulemaking Portal:* *Regulations.gov*. Follow the instructions for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to *Regulations.gov*.

*Please note:* Submit all comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7118; Email: *omb@cdc.gov*.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the

proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses; and

5. Assess information collection costs.

### Proposed Project

Using Real-time Prescription and Insurance Claims Data to Support the HIV Care Continuum—New—National Center for HIV/AIDS, Viral Hepatitis, STD and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

### Background and Brief Description

Use of HIV surveillance data to identify out-of-care persons is one strategy for identifying and re-engaging out-of-care persons, and is called Data-to-Care or “D2C.” Data-to-Care uses laboratory reports (*i.e.*, CD4 and HIV viral load test results) received by a health department's HIV surveillance program as markers of HIV care. In the current D2C model, there is a delay in the identification of out-of-care persons due to the time interval between recommended monitoring tests (*i.e.*, every three to six months) and the subsequent reporting of these tests to surveillance.

Insurance and prescription administrative claims (billing) data can be used to identify persons who fail to fill antiretroviral (ARV) prescriptions and who are at risk for falling out of care. Because most ARVs are prescribed as a 30-day supply of medication, prescription claims can be used to identify persons who are not filling ARV prescriptions on a monthly basis. Tracking ARV refill data can, therefore, be a more real-time indicator of poor adherence and can act as a harbinger of potential poor retention in care. Using real time insurance and prescription claims data to identify persons who fail to fill ARV prescriptions, and to intervene, could have a significant impact on ARV therapy adherence, viral suppression and potentially on retention in care.

The purpose of the Antiretroviral Improvement among Medicaid Enrollees (AIMS) study is to develop, implement and evaluate a D2C strategy that uses Medicaid insurance and prescription

claims data to identify; (1) persons with HIV who have never been prescribed ARV therapy, and (2) persons with HIV who fail to pick up prescribed ARV medications in a timely manner, and to target these individuals for adherence interventions.

A validated HIV case identification algorithm will be applied to the Virginia Medicaid database to identify persons with HIV who have either never filled an ARV prescription or have not filled an ARV prescription within >30 to <90 days of the expected fill date. Deterministic and probabilistic methods will be used to link this list to the Virginia Department of Health's (VDH) Care Markers database (an extract of the VDH HIV surveillance database). Individuals that are matched across the two databases (indicating that the persons are both enrolled in Medicaid and confirmed HIV positive) are eligible for study participation. Additional eligibility criteria include age 19–63 years and continuous enrollment in Virginia Medicaid for the preceding 12 months.

Cluster randomization will occur at the healthcare provider level and will be conducted concurrently with the initial potential participant screening. Providers will be randomized to either the intervention arm or to the usual care arm (*i.e.*, no intervention or control arm). Study participants are the patients of the randomized healthcare providers. Participants in the intervention arm will be delegated to either a patient-level or provider-level intervention, depending on need; participants who are >30 to <90 days late filling their ARV prescription(s) will receive the patient-level intervention, and participants who have never filled an ARV prescription will be delegated to the provider-level intervention. Participants of the provider-level intervention will not receive direct intervention. Instead, the healthcare providers of these patients (“provider participants”) will receive the provider-level intervention. Potential participants will be contacted by a study Linkage Coordinator to explain the study and obtain consent for participation.

The patient-level intervention has two phases. Phase I is intended for patients who are >30 to <60 days late filling their ARV prescription(s). In Phase I, a Linkage Coordinator will contact participants to discuss the participants' adherence barriers. Once the participant's adherence barriers are identified, the participant will be referred to appropriate resources to assist them in overcoming their adherence barrier(s). Phase II is intended for patients who were enrolled

in Phase I but who failed to fill their ARV prescriptions in the subsequent 30 days of the Phase I consultation, and for participants who are >60 to <90 days late at the time the participant was determined to be study eligible. In Phase II, the Linkage Coordinator will lead a similar consultation as in Phase I, but will probe for more complex adherence barriers (e.g., mental health concerns) and referrals will be made accordingly. The participant will also be offered an evidence-informed mobile application (“app”) which is designed to support ART adherence and retention in care.

The provider-level intervention will consist of a peer-to-peer clinician consultation delivered by clinicians from the Virginia Department of Health’s Advisory Committee to the Virginia Medication Assistance Program or by another HIV clinical expert. The

peer-to-peer clinician consultations will involve introduction or reinforcement of HIV clinical guidelines for ART initiation, strategies to optimize ART adherence, and resources for supporting adherence for people with HIV. The consultation will be tailored to the needs of the provider participant.

All analyses will be conducted at the patient level. Persons within the intervention arm will be followed prospectively for 12 months. At the end of the intervention arm follow-up period, persons within the usual care arm will be followed retrospectively for 12 months. The primary study outcome of HIV viral suppression (HIV RNA <200 copies/mL) will be compared between study arms.

CDC requests OMB approval to collect standardized information from 500 AIMS study participants (460 participants of the patient-level

intervention and 40 participants of the provider-level intervention) and 500 controls over the three-year project period. Secondary data will be abstracted from the Virginia Medicaid and Virginia Care Markers databases to determine study eligibility, to conduct the patient- and provider-level interventions, and to determine study outcomes. During the patient-level intervention, data will be collected on participants’ adherence barriers; this information will be used to refer participants to appropriate resources to assist their adherence to ART. During the provider-level intervention data will be collected to inform the peer-to-peer clinician consultation.

CDC requests OMB approval for an estimated 687 burden hours annually. There are no costs to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Participants .....	Verbal consent—participants .....	460	1	15/60	115
Provider participants .....	Verbal consent—provider participants.	40	1	15/60	10
Participants .....	Verbal consent—control participants (for participants of provider-level intervention).	40	1	15/60	10
Control participants .....	Verbal consent—control participants	500	1	15/60	125
PositiveLinks participants .....	PositiveLinks enrollment .....	100	1	60/60	100
Participants .....	Phase I interview .....	460	1	30/60	230
Participants .....	Phase II interview .....	100	1	30/60	50
Advisory Committee to the Virginia Medication Assistance Program member and other HIV clinical experts.	Clinician consultation .....	10	4	30/60	20
Provider participants .....	Clinician consultation .....	40	1	30/60	20
Advisory Committee to the Virginia Medication Assistance Program member and other HIV clinical experts.	Post-consultation questionnaire .....	10	4	10/60	7
<b>Total .....</b>	.....	.....	.....	.....	<b>687</b>

Jeffrey M. Zirger,

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021-14752 Filed 7-9-21; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60 Day-21-0530; Docket No. CDC-2021-0064]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Energy Employees Occupational Illness Compensation Program Act (EEOICPA) Dose Reconstruction Interviews and Forms. This data collection permits claimants under

EEOICPA to provide information potentially useful in reconstructing radiation doses, and to confirm that they have no further information to submit.

**DATES:** CDC must receive written comments on or before September 10, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC-2021-0064 by any of the following methods:

- *Federal eRulemaking Portal:* [Regulations.gov](https://www.regulations.gov). Follow the instructions for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS-D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to [Regulations.gov](https://www.regulations.gov).

*Please note: Submit all comments through the Federal eRulemaking portal ([regulations.gov](https://www.regulations.gov)) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS-D74, Atlanta, Georgia 30329; phone: 404-639-7570; Email: [omb@cdc.gov](mailto:omb@cdc.gov).

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected;

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and

5. Assess information collection costs.

### Proposed Project

Energy Employees Occupational Illness Compensation Program Act (EEOICPA) Dose Reconstruction Interviews and Forms (OMB Control No. 0920-0530, Exp. 1/31/2022)—Revision—National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC).

### Background and Brief Description

On October 30, 2000, the Energy Employees Occupational Illness Compensation Program Act of 2000 (42 U.S.C. 7384-7385) was enacted. This Act established a federal compensation program for employees of the Department of Energy (DOE) and certain of its contractors, subcontractors and vendors, who have suffered cancers and other designated illnesses as a result of exposures sustained in the production and testing of nuclear weapons.

Executive Order 13179, issued on December 7, 2000, delegated authorities assigned to “the President” under the Act to the Departments of Labor, Health and Human Services, Energy and Justice. The Department of Health and Human Services (DHHS) was delegated the responsibility of establishing methods for estimating radiation doses received by eligible claimants with cancer applying for compensation. NIOSH is applying the following methods to estimate the radiation doses of individuals applying for compensation.

In performance of its dose reconstruction responsibilities, under the Act, NIOSH is providing voluntary interview opportunities to claimants (or their survivors) individually, and

providing them with the opportunity to assist NIOSH in documenting the work history of the employee by characterizing the actual work tasks performed. In addition, NIOSH and the claimant may identify incidents that may have resulted in undocumented radiation exposures, characterize radiological protection and monitoring practices, and identify co-workers and other witnesses, as may be necessary, to confirm undocumented information. In this process, NIOSH uses a computer assisted telephone interview (CATI) system, which allows interviews to be conducted more efficiently and quickly as opposed to a paper-based interview instrument. Both interviews are voluntary, and failure to participate in either or both interviews will not have a negative effect on the claim, although voluntary participation may assist the claimant by adding important information that may not be otherwise available.

NIOSH uses the data collected in this process to complete an individual dose reconstruction that accounts, as fully as possible, for the radiation dose incurred by the employee in the line of duty for DOE nuclear weapons production programs. After dose reconstruction, NIOSH also performs a brief, voluntary final interview with the claimant to explain the results and to allow the claimant to confirm or question the records NIOSH has compiled. This will also be the final opportunity for the claimant to supplement the dose reconstruction record.

At the conclusion of the dose reconstruction process, the claimant submits a form to confirm that the claimant has no further information to provide to NIOSH about the claim at this time. The form notifies the claimant that signing the form allows NIOSH to forward a dose reconstruction report to DOL and to the claimant, and closes the record on data used for the dose reconstruction. Signing this form does not indicate that the claimant agrees with the outcome of the dose reconstruction. The dose reconstruction results will be supplied to the claimant and to the DOL, the agency that will utilize them as one part of its determination of whether the claimant is eligible for compensation under the Act.

CDC requests approval for an estimated 3,900 burden hours annually. There is no cost to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Claimant .....	Initial Interview .....	3,600	1	1	3,600
Claimant .....	Conclusion Form OCAS-1 .....	3,600	1	5/60	300
Total .....	.....	.....	.....	.....	3,900

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021-14753 Filed 7-9-21; 8:45 am]

**BILLING CODE 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

**Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH)**

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice of meeting and request for comment.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, the CDC, announces the following meeting of the Advisory Board on Radiation and Worker Health (ABRWH or the Advisory Board). This meeting is open to the public, limited only by the space available. There are 200 spaces for the audio conference and computer lines combined. The public is welcome to submit written comments in advance of the meeting, to the contact person below. Written comments received in advance of the meeting will be included in the official record of the meeting. The public is also welcomed to listen to the meeting by joining a teleconference line and/or computer connection (information below).

**DATES:** The meeting will be held on August 18, 2021, from 1:00 p.m. to 6:30 p.m., EDT, and August 19, 2021, from 1:00 p.m. to 4:15 p.m., EDT. A public comment session will be held on August 18, 2021 at 5:30 p.m. and will conclude at 6:30 p.m., EDT or following the final call for public comment, whichever comes first. Written comments must be received on or before August 11, 2021.

**ADDRESSES:** You may submit comments by mail to: Sherri Diana, National Institute for Occupational Safety and Health, 1090 Tusculum Avenue, MS C-34, Cincinnati, Ohio 45226. Meeting Information: The USA toll-free dial-in numbers are: +1 669 254 5252 US (San Jose); +1 646 828 7666 US (New York); +1 551 285 1373 US; +1 669 216 1590 US (San Jose); The Meeting ID is: 161 786 4323 and the Passcode is: 76650371; Web conference by Zoom meeting connection: <https://cdc.zoomgov.com/j/1617864323?pwd=NWFzTmNlbUtmOFFmMINlbnZOWUczZz09>.

**FOR FURTHER INFORMATION CONTACT:** Rashaun Roberts, Ph.D., Designated Federal Officer, NIOSH, CDC, 1090 Tusculum Avenue, Mailstop C-24, Cincinnati, Ohio 45226; Telephone: (513) 533-6800; Toll Free: 1 (800) CDC-INFO; email: [ocas@cdc.gov](mailto:ocas@cdc.gov).

**SUPPLEMENTARY INFORMATION:** *Background:* The Advisory Board was established under the Energy Employees Occupational Illness Compensation Program Act of 2000 to advise the President on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Advisory Board include providing advice on the development of probability of causation guidelines which have been promulgated by the Department of Health and Human Services (HHS) as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, advice on the scientific validity and quality of dose estimation and reconstruction efforts being performed for purposes of the compensation program, and advice on petitions to add classes of workers to the Special Exposure Cohort (SEC). In December 2000, the President delegated responsibility for funding, staffing, and operating the Advisory Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC.

The Advisory Board's charter was issued on August 3, 2001, renewed at

appropriate intervals, rechartered on March 22, 2020, and will terminate on March 22, 2022.

*Purpose:* This Advisory Board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this program; and (c) upon request by the Secretary, HHS, advising the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

*Matters To Be Considered:* The agenda will include discussions on the following: NIOSH Program Update; Department of Labor Program Update; Department of Energy Program Update; SEC Petitions Update; Procedures Review Finalization/Document Approvals; Oak Ridge National Laboratory (X-10), Y-12 SEC Petition #250 Addendum Update (Oak Ridge, Tennessee; 1987-1994), and a Board Work Session. Agenda items are subject to change as priorities dictate.

The Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

**Kalwant Smagh,**

*Director, Strategic Business Initiatives Unit, Office of the Chief Operating Officer, Centers for Disease Control and Prevention.*

[FR Doc. 2021-14685 Filed 7-9-21; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

[60 Day–21–1100; Docket No. CDC–2021–0066]

### Proposed Data Collection Submitted for Public Comment and Recommendations

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

**ACTION:** Notice with comment period.

**SUMMARY:** The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies the opportunity to comment on a proposed and/or continuing information collection, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed information collection project titled Identification of Behavioral and Clinical Predictors of Early HIV Infection (Project DETECT), which collects information from people testing for HIV in order to compare the performance characteristics of new point of care HIV tests for detection of early HIV infection and to identify behavioral and clinical predictors of early HIV infection.

**DATES:** CDC must receive written comments on or before September 10, 2021.

**ADDRESSES:** You may submit comments, identified by Docket No. CDC–2021–0066 by any of the following methods:

- *Federal eRulemaking Portal:* Regulations.gov. Follow the instructions for submitting comments.

- *Mail:* Jeffrey M. Zirger, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329.

*Instructions:* All submissions received must include the agency name and Docket Number. CDC will post, without change, all relevant comments to Regulations.gov.

*Please note: Submit all comments through the Federal eRulemaking portal (regulations.gov) or by U.S. mail to the address listed above.*

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Jeffrey M. Zirger, Information Collection Review Office,

Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: omb@cdc.gov.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to the OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected;
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses; and
5. Assess information collection costs.

### Proposed Project

Identification of Behavioral and Clinical Predictors of Early HIV Infection (Project DETECT)—(OMB Control No. 0920–1100, Exp. 1/31/2022)—Extension—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

### Background and Brief Description

The Centers for Disease Control and Prevention (CDC), National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention (NCHHSTP), Division of HIV/AIDS Prevention (DHAP) requests a three-year Extension for a data collection titled Identification of

Behavioral and Clinical Predictors of Early HIV Infection (Project DETECT).

CDC provides guidelines for HIV testing and diagnosis for the United States, as well as technical guidance for its grantees. The purpose of this project is to assess characteristics of HIV testing technologies to update these guidance documents to reflect the latest available testing technologies, their performance characteristics, and considerations regarding their use. Specifically, CDC will describe behavioral and clinical characteristics of persons with early infection to help HIV test providers (including CDC grantees) choose which HIV tests to use, and target tests appropriately to persons at different levels of risk. This information will be disseminated primarily through guidance documents and articles in peer-reviewed journals.

The primary study population will be persons at high risk for, or diagnosed with HIV infection, many of whom will be men who have sex with men (MSM), transgender women, minorities, and persons who inject drugs (PWIDs) because the majority of new HIV infections occur each year among these populations. The goals of the project are to: (1) Characterize the performance of new HIV tests for detecting established and early HIV infection at the point of care, relative to each other and to currently used gold standard, non-point-of-care (POC) tests, and (2) identify behavioral and clinical predictors of early HIV infection.

Project DETECT will enroll 1,867 persons annually from two study sites (Seattle and Baltimore). The study will be conducted in two phases.

*Phase 1:* After a client consents to participate, he/she will be assigned a unique Participant ID, and will then undergo testing with up to seven new HIV tests under study. While awaiting test results, participants will undergo additional specimen collections and complete the Phase 1 Enrollment Survey.

*Phase 2:* All Phase 1 participants whose results on the seven tests under investigation are not in agreement with one another test (discordant), will be considered to have a potential early HIV infection. Nucleic amplification testing that detects viral nucleic acids will be conducted to confirm an HIV diagnosis and rule out false positives. Study investigators expect that each year, 50 participants with discordant test results will be invited to participate in serial follow-up specimen collections to assess the time point at which all HIV test results resolve and become concordant positive (indicating enrollment during early infection) or concordant negative

(indicating one or more false-positive test results in Phase 1).

The follow-up schedule will consist of up to nine visits scheduled at regular intervals over a 70-day period. At each follow-up visit, participants will be tested with the new HIV tests and additional oral fluid and blood specimens will also be collected for storage and use in future HIV test evaluations at CDC. Participants will be followed only to the point at which all their test results become concordant. At each time point, participants will be asked to complete the Phase 2 HIV Symptom and Care survey to collect information on symptoms associated with early HIV infection as well as access to HIV care and treatment since the last Phase 2 visit. When all tests

become concordant (*i.e.*, at the last Phase 2 visit) participants will complete the Phase 2 Behavioral Survey to identify any behavioral changes during follow-up. Of the 50 Phase 2 participants; it is estimated that no more than 26, annually, will have early HIV infection.

All data for the proposed information collection will be collected via an electronic Computer Assisted Self-Interview (CASI) survey. Participants will complete the surveys on an encrypted computer, with the exception of the Phase 2 Symptom and Care survey, which will be administered by a research assistant and then electronically entered into the CASI system. Data to be collected via CASI include questions on sociodemographic

characteristics, medical care, HIV testing, pre-exposure prophylaxis, antiretroviral treatment, sexually transmitted diseases (STD) history, symptoms of early HIV infection, substance use and sexual behavior.

Data from the surveys will be merged with HIV test results and relevant clinical data using the unique identification (ID) number. Data will be stored on a secure server managed by the awardee's Information Technology (IT) Services. The participation of respondents is voluntary. There is no cost to the respondents other than their time. The total estimated annual burden hours for the proposed project are 1,594 hours.

**ESTIMATED ANNUALIZED BURDEN HOURS**

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Persons eligible for study.	Phase 1 Consent .....	2,334	1	15/60	584
Enrolled participants .....	Phase 1 Enrollment Survey .....	1,867	1	30/60	934
	Phase 2 Consent .....	50	1	15/60	13
	Phase 2 HIV Symptom and Care survey .....	50	9	5/60	38
	Phase 2 Behavioral Survey .....	50	1	30/60	25
Total .....	.....	.....	.....	.....	1,594

**Jeffrey M. Zirger,**

*Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.*

[FR Doc. 2021-14754 Filed 7-9-21; 8:45 am]

**BILLING CODE 4163-18-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[30 Day-21-1242]

**Agency Forms Undergoing Paperwork Reduction Act Review**

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled Strengthening U.S. Response to Resistant Gonorrhea (SURRG) to the Office of Management and Budget (OMB) for review and approval. CDC previously published a "Proposed Data Collection Submitted for Public Comment and Recommendations" notice on September 30, 2020 to obtain comments from the public and affected agencies.

CDC received one non-substantive comment related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

(a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(c) Enhance the quality, utility, and clarity of the information to be collected;

(d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology,

*e.g.*, permitting electronic submission of responses; and

(e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570. Comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

**Proposed Project**

Strengthening U.S. Response to Resistant Gonorrhea (SURRG) (OMB Control No. 0920-1242, Exp. 9/30/2021)—Revision—National Center for HIV/AIDS, Viral Hepatitis, STD, and TB



Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

*Background and Brief Description*

The purposes of Strengthening U.S. Response to Resistant Gonorrhea (SURRG) are to: (1) Improve national capacity to detect, monitor, and respond to the emerging threat of antibiotic-resistant gonorrhea, (2) understand trends in and factors contributing to antibiotic-resistant gonorrhea, and (3) build a robust evidence-base for public health action. This information collection is important because: (1) Effective treatment of gonorrhea is critical to gonorrhea control and prevention, (2) untreated or inadequately treated gonorrhea can cause serious reproductive health complications, such as infertility, (3) *Neisseria gonorrhoeae* (the bacterium that causes gonorrhea) has consistently demonstrated the ability to develop resistance to the antibiotics used for treatment and may be developing resistance to the last remaining treatment option recommended by the Centers for Disease Control and Prevention (CDC), and (4) antibiotic-resistant gonorrhea is extremely difficult to detect without enhanced surveillance and public health activities, such as SURRG, because healthcare providers rarely perform or have access to resistance testing for individual patients.

SURRG supports rapid detection of resistant gonorrhea and gets actionable information into the hands of healthcare providers (to support appropriate treatment of individual patients) and local health departments (to support rapid public health response to slow the spread of resistant infections in the community). Jurisdictions participating in SURRG applied as part of a competitive process and participate voluntarily. As an overview of SURRG, healthcare providers at participating clinics (sexually transmitted disease [STD] clinics affiliated with a single public health department or other participating non-STD clinic sites) collect specimens for *N. gonorrhoeae* culture testing from men and women seeking care for possible gonorrhea. Specimens that demonstrate *N. gonorrhoeae* (called “isolates”) undergo antibiotic resistance testing within

several days at a local public health laboratory. Laboratory results demonstrating resistance are rapidly communicated by the laboratory staff to the healthcare provider and designated health department staff member, who initiates a field investigation. The patient (from whom the resistant specimen was collected) is interviewed about risk factors and recent contacts, and will be re-tested to ensure that they were cured. Recent contacts are interviewed by the health department (contact tracing) and tested for gonorrhea. The participating health departments collect and transmit to CDC demographic and clinical data about persons tested for, and diagnosed with gonorrhea in the participating clinics, results of local antibiotic resistance testing, and information about field investigations. None of the data transmitted to CDC contains any personally identifiable information.

These data are used by CDC to monitor resistance, understand risk factors for resistance, and identify the most effective approaches to prevent the spread of resistance. Data are transmitted through CDC’s Secure Access Management Services (SAMS). SAMS is an approved federal information technology system that provides authorized and validated users secure and encrypted access to CDC file transfer applications. The encrypted data are stored in a secure CDC server with strictly controlled and restricted access rights. Isolates are shipped each month to one of four Antibiotic Resistance Regional Laboratory Network (ARLN) laboratories for confirmatory antibiotic susceptibility testing and molecular characterization. The isolates only contain bacterial DNA (and *not* human DNA).

Under the SURRG protocol, the local SURRG data managers from each of the funded jurisdictions abstract STD clinic data for patients tested for gonorrhea, receive data from non-STD clinic healthcare sites about persons tested for gonorrhea, receive resistance testing laboratory results from local public health laboratories, abstract data about field investigations, and merge the data. Every two months, the local SURRG data manager cleans the data, removes personally identifiable information, and transmits the data to CDC. We estimate

these data processes will take 16 hours every two months. Annually, the local SURRG data manager will send a final cumulative data file, so a total of seven data transmissions/responses will occur. Every two months, data managers at each of the participating non-STD clinic health centers abstract and clean data and securely transmits the data to the local SURRG data manager. We estimate that it will take three hours each time data managers at each non-STD SURRG location abstract, clean, and transmit SURRG data.

Microbiologists at public health laboratories from each of the eight SURRG funded jurisdictions conduct antibiotic resistance testing on all *N. gonorrhoeae* isolates from all STD clinic sites and non-STD clinic sites participating in SURRG. Each test takes approximately 10 minutes of staff time, and testing of control strains is also conducted approximately twice per week at each laboratory. On average, each jurisdiction conducts approximately 600 resistance tests per year for patient care, plus 100 control strains per year for quality assurance. Thus, a total of approximately 700 tests per year per grantee are performed. Every two months, a laboratory data manager abstracts test results and securely sends the datafile to the local SURRG data manager. We estimate that laboratory data managers spend approximately one hour each time they abstract, clean, and transmit project data.

*Health department staff will interview:* Any person diagnosed with antibiotic-resistant gonorrhea or have a case of gonorrhea of public health significance index case, and their sexual contacts. On average, each jurisdiction will identify four drug-resistant isolates each month. These isolates will spur field investigations, which will result in six additional interviews each month. We estimate a total of 120 interviews will occur annually at each site, for a total across the 8 sites of 960 interviews each year. Each interview will take approximately 20 minutes.

The total estimated annual burden hours are 2,665. There are no additional costs to respondents other than their time.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Local SURRG data manager .....	Facility Data Elements .....	8	7	16

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Data manager at non-STD clinic health centers.	Non-STD clinic Data Elements .....	26	6	3
Public Health Laboratory Microbiologist .....	Laboratory Testing Data Elements .....	8	700	10/60
Public Health Laboratory Data Manager .....	Laboratory Data Elements .....	8	6	1
Gonorrhea Patients and Sexual Contacts .....	Field Investigation Data Elements .....	960	1	20/60

**Jeffrey M. Zirger,**

Lead, Information Collection Review Office, Office of Scientific Integrity, Office of Science, Centers for Disease Control and Prevention.

[FR Doc. 2021-14751 Filed 7-9-21; 8:45 am]

BILLING CODE 4163-18-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Children and Families**

[CFDA Number: 93.676]

**Announcement of Intent To Issue One Operating Division (OPDIV)-Initiated Supplement to BCFS Health and Human Services Under the Standing Announcement for Residential (Shelter) Services for Unaccompanied Alien Children, HHS-2017-ACF-ORR-ZU-1132**

**AGENCY:** Unaccompanied Alien Children’s (UAC) Program, Office of Refugee Resettlement (ORR), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

**ACTION:** Notice of intent to issue one OPDIV-Initiated Supplement to BCFS Health and Human Services (BCFS HHS), San Antonio, Texas under the UAC Program.

**SUMMARY:** ACF, ORR, announces the issuance of one OPDIV-Initiated Supplement to BCFS HHS, San Antonio, Texas in the amount of up to \$475,868,102. ORR has been identifying additional capacity to provide shelter for potential increases in apprehensions of UAC at the Southwest Border. Planning for increased shelter capacity is a prudent step to ensure that ORR is able to meet its responsibility, by law, to provide shelter for UAC referred to its care by the Department of Homeland Security. To ensure sufficient capacity to provide shelter to UAC referred to HHS, ORR is requesting that BCFS HHS continue the use of up to 1008 hard-sided beds at Carrizo Springs, Texas.

**DATES:** Supplemental award funds will support activities until January 31, 2022.

**FOR FURTHER INFORMATION CONTACT:** Stephen Antkowiak, Office of Refugee Resettlement, Division of Unaccompanied Alien Children Operations, 330 Street SW, Washington, DC 20447. Phone: 202-260-6165. Email: [stephen.antkowiak@acf.hhs.gov](mailto:stephen.antkowiak@acf.hhs.gov).

**SUPPLEMENTARY INFORMATION:** ORR is continuously monitoring its capacity to shelter the UAC referred to HHS, as well as the information received from interagency partners, to inform any future decisions or actions.

ORR has specific requirements for the provision of services. Award recipients must have the infrastructure, licensing, experience, and appropriate level of trained staff to meet those requirements. The expansion of the existing program and its services through this supplemental award is a key strategy for ORR to be prepared to meet its responsibility to provide shelter for UAC referred to its care by the Department of Homeland Security (DHS), and so the Customs and Border Protection can continue its vital national security mission to prevent illegal migration, trafficking, and protect the borders of the United States.

**Statutory Authority:** This program is authorized by—

(A) Section 462 of the Homeland Security Act of 2002, which in March 2003, transferred responsibility for the care and custody of UAC from the Commissioner of the former Immigration and Naturalization Service to the Director of ORR within HHS.

(B) The Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996), as well as the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Pub. L. 110-457), which authorizes post release services under certain conditions to eligible children. All programs must comply with the Flores Settlement Agreement, Case No. CV85-4544-RJK (C.D. Cal. 1996); pertinent

regulations; and ORR policies and procedures.

**Elizabeth Leo,**

Senior Grants Policy Specialist, Office of Grants Policy, Office of Administration.

[FR Doc. 2021-14722 Filed 7-7-21; 4:15 pm]

BILLING CODE 4184-45-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Administration for Community Living**

[OMB# 0985-New]

**Agency Information Collection Activities; Proposed Collection; Comment Request; Evidence Based Program Fidelity Surveys**

**AGENCY:** Administration for Community Living, HHS.

**ACTION:** Notice.

**SUMMARY:** The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of information listed above. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to a Grantee Survey and a Local Implementation Organization Survey that will be used by ACL to evaluate the fidelity with which ACL and its grantee organizations, under the Older Americans Act, implement the required evidence-based programs.

**DATES:** Comments on the collection of information must be submitted electronically by 11:59 p.m. (EST) or postmarked by September 10, 2021.

**ADDRESSES:** Submit electronic comments on the collection of information to: [Susan.Jenkins@acl.hhs.gov](mailto:Susan.Jenkins@acl.hhs.gov). Submit written comments on the collection of information to

Administration for Community Living, Washington, DC 20201, Attention: Susan Jenkins.

**FURTHER INFORMATION CONTACT:**

Susan Jenkins, Administration for Community Living, Washington, DC 20201, 202-795-7369 or by email: [Susan.Jenkins@acl.hhs.gov](mailto:Susan.Jenkins@acl.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Under the PRA (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The PRA requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing a notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, ACL invites

comments on our burden estimates or any other aspect of this collection of information, including:

(1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility;

(2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used to determine burden estimates; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

The Evidence Based Program Fidelity Surveys will be used by ACL to evaluate the fidelity with which ACL's grantee organizations, under the Older Americans Act, implement the required evidence-based programs. States that receive Older Americans Act funds under Title III-D are required to spend those funds on evidence-based programs to improve the health and well-being of their clients and to reduce disease and

injury. Since 2003, the aging services network has been steadily moving towards wider implementation of disease prevention and health promotion programs that are based on scientific evidence and demonstrated to improve the health of older adults. The FY 2012 Congressional appropriations law included, for the first time, an evidence-based requirement related to Title III-D funds.

The results of this information collection will be used by ACL/AoA to:

- Effectively report its results to the President, to Congress, to the Department of Health and Human Services and to the public.
- Assess the effectiveness of ACL and its grantees in monitoring program fidelity.
- Aid in program refinement and continuous improvement.

To comment on this information collection please visit the ACL website: <https://www.acl.gov/about-acl/public-input>.

**Estimated Program Burden**

ACL estimates the burden associated with this collection of information as follows:

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Annual burden hours
Grantee: Program selection process and survey .....	103	1	2.00	206
Local Implementation Organization Survey .....	412	1	0.67	275
Total .....	515	1	0.93	481

Dated: July 6, 2021.

**Alison Barkoff,**

*Acting Administrator and Assistant Secretary for Aging.*

[FR Doc. 2021-14700 Filed 7-9-21; 8:45 am]

**BILLING CODE 4154-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Food and Drug Administration**

[Docket No. FDA-2019-D-1997]

**Food and Drug Administration Oversight of Food Products Covered by Systems Recognition Arrangements; Draft Guidance for Food and Drug Administration Staff; Availability**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for FDA staff entitled "FDA Oversight of Food Products Covered by Systems Recognition Arrangements." This draft guidance provides recommendations related to the FDA's regulatory oversight activities for food products imported from countries whose food safety systems the FDA has recognized in Systems Recognition Arrangements (SRAs).

**DATES:** Submit either electronic or written comments on the draft guidance by September 10, 2021 to ensure that the Agency considers your comment on the draft guidance before it begins work on the final version of the guidance.

**ADDRESSES:** You may submit comments on any guidance at any time as follows:

*Electronic Submissions*

Submit electronic comments in the following way:

• *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a

written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

#### Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

**Instructions:** All submissions received must include the Docket No. FDA-2019-D-1997 for “FDA Oversight of Food Products Covered by Systems Recognition Arrangements; Draft Guidance for FDA Staff.” Received comments will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for a single hard copy of the draft guidance entitled “FDA Oversight of Food Products Covered by Systems Recognition Arrangements” to the Office of Strategic Planning and Operational Policy, Office of Regulatory Affairs, Food and Drug Administration, 12420 Parklawn Dr., Element Building, Rm. 4148, Rockville, MD 20857. Send one self-addressed adhesive label to assist that office in processing your request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance.

#### FOR FURTHER INFORMATION CONTACT:

Marla Hallacy, Office of Regulatory Affairs, Division of Operational Policy, Food and Drug Administration, 12420 Parklawn Dr., Rockville, MD 20857, 240-402-6674.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

FDA is announcing the availability of a draft guidance for FDA staff entitled “FDA Oversight of Food Products Covered by Systems Recognition Arrangements; Draft Guidance for FDA Staff.” The draft guidance is part of FDA’s larger effort to take a risk-based approach to food safety to include ensuring the safety of imported food, consistent with the FDA Food Safety Modernization Act. The guidance covers FDA’s regulatory oversight activities for food products covered by SRAs between FDA and its foreign regulatory counterparts. Currently, the FDA has signed SRAs with food safety agencies in Australia, Canada, and New Zealand.

The draft guidance is being issued consistent with FDA’s good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on the topic of Systems Recognition Arrangement implementation. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternate approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

FDA tentatively concludes that this draft guidance contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

## III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either <https://www.fda.gov/regulatory-information/search-fda-guidance-documents> or <https://www.regulations.gov>.

Dated: July 6, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021-14789 Filed 7-9-21; 8:45 am]

**BILLING CODE 4164-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA-2019-D-5364]

#### Submission of Plans for Cigarette Packages and Cigarette Advertisements (Revised); Guidance for Industry; Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice of availability.

**SUMMARY:** The Food and Drug Administration (FDA or Agency) is announcing the availability of a revised final guidance for industry entitled “Submission of Plans for Cigarette Packages and Cigarette Advertisements (Revised).” This is a revision to the third edition of this final guidance, which issued in February 2021, and is intended to assist those required to submit cigarette plans for cigarette packages and cigarette advertisements by providing content, timing, and other recommendations related to those submissions. FDA is revising this guidance to reflect the May 21, 2021, court order that postponed the effective date of the final rule entitled “Tobacco Products; Required Warnings for Cigarette Packages and Advertisements” to July 13, 2022. Pursuant to the court order, this revised guidance strongly encourages entities to submit cigarette plans to FDA as soon as possible after publication of the final rule, and in any event, by the recommended submission date, which is currently September 13, 2021.

**DATES:** The announcement of the revised final guidance is published in the **Federal Register** on July 12, 2021.

**ADDRESSES:** You may submit electronic or written comments on Agency guidances at any time as follows:

#### *Electronic Submissions*

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

#### *Written/Paper Submissions*

Submit written/paper submissions as follows:

- **Mail/Hand Delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

**Instructions:** All submissions received must include the Docket No. FDA-2019-D-5364 for "Submission of Plans for Cigarette Packages and Cigarette Advertisements (Revised)." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff office between 9 a.m. and 4 p.m., Monday through Friday, 240-402-7500.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be

made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.govinfo.gov/content/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

**Docket:** For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852, 240-402-7500.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of this guidance to the Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist that office in processing your request or include a Fax number to which the guidance may be sent. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the guidance.

**FOR FURTHER INFORMATION CONTACT:** Courtney Smith, Center for Tobacco Products, Food and Drug Administration, Document Control Center, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993-0002, 1-877-287-1373, email: [AskCTPREgulations@fda.hhs.gov](mailto:AskCTPREgulations@fda.hhs.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

FDA is announcing the availability of a revised final guidance for industry entitled "Submission of Plans for Cigarette Packages and Cigarette Advertisements (Revised)." The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) (Pub. L. 111-31) was enacted on June 22, 2009, and granted FDA important new authority to regulate the manufacture, marketing, and distribution of tobacco products. The Tobacco Control Act also amended section 4 of the Federal Cigarette Labeling and Advertising Act of 1965 (Pub. L. 89-92) (FCLAA) to direct FDA to issue regulations requiring each cigarette package and advertisement to bear a new textual warning label statement accompanied by color graphics depicting the negative health consequences of smoking (section 201 of the Tobacco Control Act). In enacting this legislation, Congress also provided that FDA may adjust the required warnings if FDA found that such a change would promote greater public understanding of the risks associated with the use of tobacco products (section 202 of the Tobacco Control Act). The Tobacco Control Act also modified the requirements of the FCLAA regarding the submission of cigarette plans for the random and equal display and distribution of required warnings on cigarette packages and quarterly rotation of required warnings in cigarette advertisements. It also requires that such cigarette plans be submitted to FDA for review and approval, rather than to the Federal Trade Commission.

In the **Federal Register** of March 18, 2020, FDA issued a final rule entitled "Tobacco Products; Required Warnings for Cigarette Packages and Advertisements" (85 FR 15638). The rule specifies the color graphics that must accompany the new textual warning label statements and establishes marketing requirements for cigarette packages and advertisements. The marketing requirements include, among other things, submission of a cigarette plan that provides for the random and equal display and distribution of the required warnings on cigarette packages and quarterly rotation of the required warnings in cigarette advertisements, as described under section 4 of FCLAA.

On April 3, 2020, the final rule was challenged in the U.S. District Court for

the Eastern District of Texas.<sup>1</sup> On May 8, 2020, the Court granted a joint motion to govern proceedings in that case and postpone the effective date of the final rule by 120 days.<sup>2</sup> On December 2, 2020, the same Court granted a new motion by Plaintiffs in the same case to postpone the effective date of the final rule by an additional 90 days.<sup>3</sup> On March 2, 2021, the same Court granted a new motion by Plaintiffs in the same case to postpone the effective date of the final rule by an additional 90 days.<sup>4</sup> On May 21, 2021, the same Court granted a new motion by Plaintiffs in the same case to postpone the effective date of the final rule by an additional 90 days.<sup>5</sup> The new effective date of the final rule is July 13, 2022. Pursuant to the court order, any obligation to comply with a deadline tied to the effective date of the final rule is similarly postponed, and those obligations and deadlines are now tied to the postponed effective date. As such, this revised guidance strongly encourages entities to submit cigarette plans to FDA as soon as possible after publication of the final rule, and in any event, by September 13, 2021.

FDA is issuing this guidance consistent with FDA's good guidance practices regulation (21 CFR 10.115). The guidance represents the current thinking of FDA regarding the submission of plans for cigarette packages and cigarette advertisements. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

## II. Paperwork Reduction Act of 1995

While this guidance contains no collection of information, it does refer to previously approved FDA collections of information. Therefore, clearance by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3521) is not required for this guidance. The previously approved collections of

information are subject to review by OMB under the PRA. The collections of information in 21 CFR 1141.10 have been approved under 0910–0877.

## III. Electronic Access

Persons with access to the internet may obtain an electronic version of the guidance at <https://www.regulations.gov>, <https://www.fda.gov/tobacco-products/products-guidance-regulations/rules-regulations-and-guidance>, and <https://www.fda.gov/regulatory-information/search-fda-guidance-documents>.

Dated: June 24, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021–14674 Filed 7–9–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. FDA–2019–N–4590]

#### Morton Grove Pharmaceuticals, Inc., et al.; Withdrawal of Approval of 21 Abbreviated New Drug Applications; Correction

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice; correction.

**SUMMARY:** The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of December 2, 2019. The document announced the withdrawal of approval of 21 abbreviated new drug applications (ANDAs) from multiple applicants, effective January 2, 2020. The document erroneously included ANDA 076709 for Fentanyl Extended-Release Film, 25 micrograms (mcg)/hour (hr), 50 mcg/hr, 75 mcg/hr, 100 mcg/hr, held by Actavis Laboratories UT, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc., 577 Chipeta Way, Salt Lake City, UT 84108, and ANDA 077062 for Fentanyl Extended-Release Film, 25 mcg/hr, 50 mcg/hr, 75 mcg/hr, and 100 mcg/hr, held by Wayne Pharma LLC, 1240 Sugg Parkway, Greenville, NC 27834. This correction is being made because FDA previously withdrew the approval of ANDAs 076709 and 077062 in the **Federal Register** of November 18, 2019. This notice corrects that error.

**FOR FURTHER INFORMATION CONTACT:** Martha Nguyen, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1676,

Silver Spring, MD 20993–0002, 240–402–6980, [Martha.Nguyen@fda.hhs.gov](mailto:Martha.Nguyen@fda.hhs.gov).

**SUPPLEMENTARY INFORMATION:** In the **Federal Register** of Monday, December 2, 2019, 84 FR 65986, appearing on page 65986 in FR Doc. 2019–25946, the following correction is made:

On page 65986, in the table, the entries for ANDAs 076709 and 077062 are removed.

Dated: July 6, 2021.

**Lauren K. Roth,**

*Acting Principal Associate Commissioner for Policy.*

[FR Doc. 2021–14717 Filed 7–9–21; 8:45 am]

**BILLING CODE 4164–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Meeting of the COVID–19 Health Equity Task Force

**AGENCY:** Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice of meeting.

**SUMMARY:** As required by the Federal Advisory Committee Act, the U.S. Department of Health and Human Services (HHS) is hereby giving notice that the COVID–19 Health Equity Task Force (Task Force) will hold a virtual meeting on July 30, 2021. The purpose of this meeting is to consider interim recommendations addressing future pandemic preparedness, mitigation, and resilience needed to ensure equitable response and recovery in communities of color and other underserved populations. This meeting is open to the public and will be live-streamed at [www.hhs.gov/live](http://www.hhs.gov/live). Information about the meeting will be posted on the HHS Office of Minority Health website: [www.minorityhealth.hhs.gov/healthequitytaskforce/](http://www.minorityhealth.hhs.gov/healthequitytaskforce/) prior to the meeting.

**DATES:** The Task Force meeting will be held on Friday, July 30, 2021, from 2 p.m. to approximately 6 p.m. ET (date and time are tentative and subject to change). The confirmed time and agenda will be posted on the COVID–19 Health Equity Task Force web page: [www.minorityhealth.hhs.gov/healthequitytaskforce/](http://www.minorityhealth.hhs.gov/healthequitytaskforce/) when this information becomes available.

**FOR FURTHER INFORMATION CONTACT:** Samuel Wu, Designated Federal Officer for the Task Force; Office of Minority Health, Department of Health and Human Services, Tower Building, 1101 Wootton Parkway, Suite 100, Rockville,

<sup>1</sup> *R.J. Reynolds Tobacco Co. et al. v. United States Food and Drug Administration et al.*, No. 6:20–cv–00176 (E.D. Tex. filed April 3, 2020).

<sup>2</sup> *R.J. Reynolds Tobacco Co. et al.*, No. 6:20–cv–00176 (E.D. Tex. May 8, 2020) (order granting joint motion and establishing schedule), Doc. No. 33.

<sup>3</sup> *R.J. Reynolds Tobacco Co. et al.*, No. 6:20–cv–00176 (E.D. Tex. December 2, 2020) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 80.

<sup>4</sup> *R.J. Reynolds Tobacco Co. et al.*, No. 6:20–cv–00176 (E.D. Tex. March 2, 2021) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 89.

<sup>5</sup> *R.J. Reynolds Tobacco Co. et al.*, No. 6:20–cv–00176 (E.D. Tex. May 21, 2021) (order granting Plaintiffs' motion and postponing effective date), Doc. No. 91.

Maryland 20852. Phone: 240-453-6173; email: [COVID19HETF@hhs.gov](mailto:COVID19HETF@hhs.gov).

**SUPPLEMENTARY INFORMATION:**

*Background:* The COVID-19 Health Equity Task Force (Task Force) was established by Executive Order 13995, dated January 21, 2021. The Task Force is tasked with providing specific recommendations to the President, through the Coordinator of the COVID-19 Response and Counselor to the President (COVID-19 Response Coordinator), for mitigating the health inequities caused or exacerbated by the COVID-19 pandemic and for preventing such inequities in the future. The Task Force shall submit a final report to the COVID-19 Response Coordinator addressing any ongoing health inequities faced by COVID-19 survivors that may merit a public health response, describing the factors that contributed to disparities in COVID-19 outcomes, and recommending actions to combat such disparities in future pandemic responses.

The meeting is open to the public and will be live-streamed at [www.hhs.gov/live](http://www.hhs.gov/live). No registration is required. A public comment session will be held during the meeting. Pre-registration is required to provide public comment during the meeting. To pre-register, please send an email to [COVID19HETF@hhs.gov](mailto:COVID19HETF@hhs.gov) and include your name, title, and organization by close of business on Friday, July 23, 2021. Comments will be limited to no more than three minutes per speaker

and should be pertinent to the meeting discussion. Individuals are encouraged to provide a written statement of any public comment(s) for accurate minute-taking purposes. If you decide you would like to provide public comment but do not pre-register, you may submit your written statement by emailing [COVID19HETF@hhs.gov](mailto:COVID19HETF@hhs.gov) no later than close of business on Thursday, August 5, 2021. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact: [COVID19HETF@hhs.gov](mailto:COVID19HETF@hhs.gov) and reference this meeting. Requests for special accommodations should be made at least 10 business days prior to the meeting.

Dated: July 6, 2021.

**Samuel Wu,**

*Designated Federal Officer, COVID-19 Health Equity Task Force.*

[FR Doc. 2021-14703 Filed 7-9-21; 8:45 am]

**BILLING CODE 4150-29-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**Prospective Grant of an Exclusive Patent License: Oligonucleotides Analogues Targeting Human LMNA “lamin A” Gene**

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The National Human Genome Research Institute (NHGRI), an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive, Sublicensable Patent License to consolidate co-owned rights to the inventions and the Patents and Patent Applications listed in the Supplementary Information section of this notice to The Progeria Research Foundation (“PRF”), having a place of business in 200 Lake Street, Unit 102, Peabody, MA 01960.

**DATES:** Only written comments and/or applications for a license that are received by the NHGRI Office of Technology Transfer Office on or before July 27, 2021 will be considered.

**ADDRESSES:** Requests for a copy of the patent application(s), inquiries, and comments relating to the contemplated license should be directed to: Eggerton Campbell, License and Patent Manager, NHGRI Technology Transfer Office, Telephone: 301-402-1648; email: [eggerton.campbell@nih.gov](mailto:eggerton.campbell@nih.gov).

**SUPPLEMENTARY INFORMATION:** The following and all continuing U.S. and foreign patents/patent applications thereof are the intellectual properties to be licensed under the prospective agreement:

Country	Title	Application No.	Patent No.
United States	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-US-01.	61/568,590.	
WIPO	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-PCT-03.	PCT/US12/068609 WO 2013/086444.	
United Kingdom	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-GB-12.	12806796.4	2788488
United States	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-US-02.	13/708,709	9,326,992
United States	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-US-06.	15/084,255	9,833,468
United States	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-US-07.	15/727,483 CON ..	10,398,721
Europe	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-EP-04.	12806796.4	2788488
Japan	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-JP-15.	2019-109410.	
France	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-FR-11.	12806796.4	2788488
Germany	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-DE-10.	12806796.4	2788488
Ireland	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-IE-13.	12806796.4	2788488
Japan	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-JP-05.	2014-546152	6132849
Japan	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-JP-08.	2017-41744.	
Netherlands	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-NL-14.	12806796.4	2788488
Switzerland	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-0-CH-09.	12806796.4	2788488
United States	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-US-01	62/330,027.	
WIPO	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-PCT-02	PCT/US17/30174 WO 2017/190041.	

Country	Title	Application No.	Patent No.
United States	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-US-16	16/096,524 (371-national phase).	10,822,608
United States	Oligonucleotide Analogues Targeting Human LMNA	17/024,100.	
Australia	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-AU-03	2017258642.	
Brazil	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-BR-04	BR1120180722790.	
Canada	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-CA-05	3,022,303.	
China	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-CN-06	201780040785.7.	
Colombia	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-CO-07	NC2018/0012783.	
Eurasia	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-EA-08	201892467.	
Europe	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-EP-09	17735676.3.	
Hong Kong	Methods For Treating Progeroid Laminopathies Using Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-HK-17.	19126894.5.	
India	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-IN-10	201847043433.	
Japan	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-JP-11	2019-508165.	
Korea (South)	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-KR-12	10-2018-7034615.	
Mexico	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-MX-13	MX/A/2018/013157.	
New Zealand	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-NZ-14	747685.	
Singapore	Oligonucleotide Analogues Targeting Human LMNA NIH E-044-2013-1-SG-15	11201809468X.	

The patent rights in these inventions have been assigned to the Government of the United States of America, the University of Maryland, Sarepta Therapeutics, Inc, and the Progeria Research Foundation (PRF), co-owners of said rights, for commercial development and marketing. The rights to be granted by NHGRI are controlled by NHGRI by virtue of co-ownership and a license received to the listed intellectual property. The prospective patent license will be for the purpose of consolidating the patent rights to PRF. Consolidation of these co-owned rights is intended to expedite development of the invention, consistent with the goals of the Bayh-Dole Act codified as 35 U.S.C. 200-212. The prospective patent license will be worldwide, exclusive, may be limited to those fields of use commensurate in scope with the patent rights, and will be sublicensable.

The subject technology pertains to modified oligonucleotides (called phosphorodiamidate morpholino oligonucleotides or PMOs) targeted to pre-mRNA of human LMNA Lamin A gene. These PMOs can be used to correct aberrant splicing of LMNA gene known to be involved in Hutchinson-Gilford Progeria Syndrome (HGPS), and could be used in treating this ultra-rare disease and related laminopathies.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective Exclusive Patent License will be royalty bearing and may be granted unless, within fifteen (15) days from the date of this published notice, the NHGRI Technology Transfer Office receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license that are timely filed in response to this notice will be treated as objections to

this to the grant of the contemplated exclusive patent license.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information from these license applications will be made only as required and upon a request under the *Freedom of Information Act*, 5 U.S.C. 552.

Dated: June 29, 2021.

**Claire T. Driscoll,**

*Director, Technology Transfer Office, National Human Genome Research Institute, National Institutes of Health.*

[FR Doc. 2021-14702 Filed 7-9-21; 8:45 am]

**BILLING CODE 4140-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Institute of Mental Health; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Mental Health Council.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant

applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Advisory Mental Health Council.

*Date:* August 6, 2021.

*Time:* 3:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Virtual Meeting).

*Contact Person:* Tracy Lynn Waldeck, Ph.D., Director, Division of Extramural Activities, National Institute of Mental Health, Neuroscience Center, 6001 Executive Boulevard, Room 4133, Rockville, MD 20892, (301) 480-6833, [waldeckt@mail.nih.gov](mailto:waldeckt@mail.nih.gov).

Information is also available on the Institute's/Center's home page: [www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml](http://www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml), where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: July 7, 2021.

**Melanie J. Pantoja,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-14737 Filed 7-9-21; 8:45 am]

**BILLING CODE 4140-01-P**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Heart, Lung, and Blood Institute; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Heart, Lung, and Blood Advisory Council.

The meeting will be closed to the public in accordance with the



provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Heart, Lung, and Blood Advisory Council.

*Date:* August 24, 2021.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Laura K. Moen, Ph.D., Director, Division of Extramural Research Activities, National Heart, Lung, and Blood Institute, National Institutes of Health, 6705 Rockledge Drive, Room 206-Q, Bethesda, MD 20892, 301-827-5517, [moen@mail.nih.gov](mailto:moen@mail.nih.gov).

Information is also available on the Institute's/Center's home page: [www.nhlbi.nih.gov/meetings/nhlbac/index.htm](http://www.nhlbi.nih.gov/meetings/nhlbac/index.htm), where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 6, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-14698 Filed 7-9-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 7, 2021, 9:00 a.m. to July 8, 2021, 7:00 p.m., National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on June 10, 2021, FR Doc 2021-12144, 86 FR 30965.

This notice is being amended to change the meeting date from July 7-8, 2021 to July 28-29, 2021. The meeting time remains the same. The meeting is closed to the public.

Dated: July 6, 2021.

**Tyeshia M. Roberson-Curtis,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-14738 Filed 7-9-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Heart, Lung, and Blood Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the Sleep Disorders Research Advisory Board.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* Sleep Disorders Research Advisory Board.

*Date:* August 5, 2021.

*Time:* 12:00 p.m. to 5:00 p.m.

*Agenda:* The purpose of this meeting is to update the Advisory Board and public stakeholders on the progress of sleep and circadian research activities across NIH, and the activities of professional societies.

*Place:* Virtual-Teleconference and Zoomgov.

*Telephone Access:* 1-666-254-5252 (Meeting ID: 160 375 9848 Passcode: 558748).

*Virtual Access:* Meeting ID: 160 375 9848 Passcode: 558748, <https://nih.zoomgov.com/j/1603759848?pwd=a1ZzMmdSZTJ4WThOWDBJQlRqbEYvUT09>.

*Contact Person:* Marishka Brown, Ph.D., SDRAB Executive Secretary, Director, National Center on Sleep Disorders Research, National Institutes of Health, National Heart, Lung, and Blood Institute, Division of Lung Diseases, 6705 Rockledge Drive, Suite 407B, Bethesda 20892, 301-435-0199, [ncsdr@nih.gov](mailto:ncsdr@nih.gov).

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address,

telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: [www.nhlbi.nih.gov/meetings/index.htm](http://www.nhlbi.nih.gov/meetings/index.htm), where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: July 6, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-14699 Filed 7-9-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Prospective Grant of an Exclusive Patent License: RP2 AAV-Based Gene Human Therapy for Ocular Diseases and Disorders Including XLRP

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the Supplementary Information section of this notice to PTC Therapeutics GT, Inc. located in 100 Corporate, Middlesex Business Center, South Plainfield, NJ 07080.

**DATES:** Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before July 27, 2021 will be considered.

**ADDRESSES:** Requests for copies of the patent application, inquiries, and comments relating to the contemplated an Exclusive Patent License should be directed to: Hiba Alsaffar, Ph.D., Licensing and Patenting Manager at (240)-276-5530; or at Email: [hiba.alsaffar@nih.gov](mailto:hiba.alsaffar@nih.gov).

#### SUPPLEMENTARY INFORMATION:

##### Intellectual Property

I. United States Provisional Patent Application No. 62/131,661 filed Mar.

11, 2015, [HHS Ref. No. E-050-2015-0-US-01];

II. International Patent Application No. PCT/US2016/022072 filed Mar. 11, 2015, [HHS Reference No. E-050-2015-0-PCT-03]; expired

III. Australian National Stage Patent Application No. 2016228751, filed Mar. 11, 2016, [HHS Ref. No. E-050-2015-0-AU-04]; pending

IV. Canadian National Stage Patent Application No. 2979229 filed Mar. 11, 2016, [HHS Ref. No. E-050-2015-0-CA-05]; pending

V. European national Stage Patent Application No. 1662623.3 filed Oct. 11, 2016, [HHS Ref. No. E-050-2015-0-EP-06]; issued (validated in DE, FR and GB)

VI. U.S. national Stage Patent Application No. 15/556,746 filed Sep. 8, 2017 [HHS Ref. No. E-050-2015-0-US-08]; issued

VII. Japanese National Stage Patent Application No. 2017-547425 filed Sep. 8, 2017 [HHS Ref. No. E-050-2015-0-JP-07]; pending

VIII. Divisional European Patent Application No. 20176667.2 filed May 26, 2020 [HHS Ref. No. E-050-2015-0-EP-13]; pending

IX. Divisional Japanese Patent Application No. 2020-167984 filed Oct. 2, 2020 [HHS Ref. No. E-050-2015-0-JP-14]; pending

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide, and the field of use may be limited to:

“Development and commercialization of RP2 AAV-based gene human therapy for any ocular disease, disorder or condition, including human X-linked retinitis pigmentosa (XLRP)”.

This technology discloses Adeno-Associated Viral (AAV) vectors comprising nucleotide sequences encoding RP2 or RPGR-ORF 15 transgenes and their use in treating or preventing X-linked forms of retinitis pigmentosa (XLRP).

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license

application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 2, 2021.

**Richard U. Rodriguez,**

*Associate Director, Technology Transfer Center, National Cancer Institute.*

[FR Doc. 2021-14682 Filed 7-9-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Center for Scientific Review; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Center for Scientific Review Special Emphasis Panel; Member Conflict: Motor function in healthy and clinical populations.

*Date:* August 3, 2021.

*Time:* 1:00 p.m. to 6:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Rockledge II, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

*Contact Person:* Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301-594-3163, [champoum@csr.nih.gov](mailto:champoum@csr.nih.gov). (Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393-93.396, 93.837-93.844, 93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 6, 2021.

**David W. Freeman,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2021-14697 Filed 7-9-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### National Center for Complementary & Integrative Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of a meeting of the National Advisory Council for Complementary and Integrative Health.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The meeting will be held as a virtual meeting and is open to the public as indicated below. Individuals who plan to view the virtual meeting and need special assistance or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The Open Session will be open to the public via NIH Videocast. The URL link to access this meeting is <https://videocast.nih.gov>.

*Name of Committee:* National Advisory Council for Complementary and Integrative Health.

*Date:* September 10, 2021.

*Closed:* 10:00 a.m. to 11:30 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Democracy 2, 6707 Democracy Boulevard, Bethesda, MD 20817 (Virtual Meeting).

*Open:* 11:40 a.m. to 5:00 p.m.

*Agenda:* A report from the Director of the Center and Other Staff.

*Place:* National Institutes of Health, Democracy 2, 6707 Democracy Boulevard, Bethesda, MD 20817 (Virtual Meeting).

*Contact Person:* Partap Singh Khalsa, Ph.D., DC, Director, Division of Extramural Activities, National Center for Complementary and Integrative Health, National Institutes of Health, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892-5475, 301-594-3462, [khalsap@mail.nih.gov](mailto:khalsap@mail.nih.gov).

Any interested person may file written comments with the committee by forwarding

the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Any member of the public may submit written comments no later than 15 days after the meeting.

Information is also available on the Institute's/Center's home page: <https://www.nccih.nih.gov/news/events/advisory-council-78th-meeting>, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Alternative Medicine, National Institutes of Health, HHS)

Dated: July 7, 2021.

**Tyeshia M. Roberson-Curtis**,  
Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2021-14739 Filed 7-9-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Prospective Grant of an Exclusive Patent License: High ASS1 Expressing Tumors Embody a Purine Rich Genomic Signature and Sensitivity to Purine Depletion

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The National Cancer Institute (NCI), an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an exclusive, sublicensable patent license to Yeda Research & Development Co, Ltd ("YEDA"), the technology transfer company of the Weizmann Institute of Science, a non-profit research institution located in Rehovot, Israel for NCI's rights to the patent applications listed in the Supplementary Information section of this notice.

**DATES:** Only written comments and/or applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before July 27, 2021 will be considered.

**ADDRESSES:** Requests for copies of the patent application, inquiries, and comments relating to the contemplated exclusive patent license should be directed to: Kevin W. Chang, Ph.D., Senior Licensing and Patenting Manager at Telephone: (240)-276-6910 or at Email: [changke@mail.nih.gov](mailto:changke@mail.nih.gov).

**SUPPLEMENTARY INFORMATION:**

### Intellectual Property

The following and all continuing U.S. and foreign patents/patent applications thereof are the intellectual properties to be licensed under the prospective agreement to YEDA: PCT Patent Application PCT/IL2020/050708, filed June 24, 2020 and entitled "High ASS1 Expressing Tumors Embody A Purine Rich Genomic Signature And Sensitivity To Purine Depletion" [HHS Reference No. E-210-2020-0-PCT-01].

The patent rights in these inventions have been assigned to the Government of the United States of America and YEDA. The prospective license will be for the purpose of consolidating the patent rights to YEDA, one of the co-owners of said rights, for commercial development and marketing. Consolidation of these co-owned rights is intended to expedite development of the invention, consistent with the goals of the Bayh-Dole Act codified as 35 U.S.C. 200-212.

The prospective patent license will be worldwide, exclusive, and may be limited to those fields of use commensurate in scope with the patent rights. It will be sublicensable, and any sublicenses granted by YEDA will be subject to the provisions of 37 CFR parts 401 and 404.

This technology discloses methods of treating a high argininosuccinate synthase (ASS1) expressing solid tumor with a combination of a purine synthase inhibitor or an agent that increases the pyrimidine to purine ratio in a cell, and an immune-modulating drug, such as a checkpoint inhibitor.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will include terms for the sharing of royalty income with NCI from commercial sublicenses of the patent rights. The prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

Complete applications for a license that are timely filed in response to this notice will be treated as objections to the grant of the contemplated exclusive patent license. In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 6, 2021.

**Richard U. Rodriguez**,  
Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2021-14681 Filed 7-9-21; 8:45 am]

**BILLING CODE 4140-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Notice To Announce Request for Information (RFI) Inviting Input on the ICCFASD 2022-2026 Strategic Plan Outline

**AGENCY:** National Institutes of Health, HHS.

**ACTION:** Notice.

**SUMMARY:** The Interagency Coordinating Committee on Fetal Alcohol Spectrum Disorders (ICCFASD) is developing an updated strategic plan to guide its efforts over the next five years. As sponsor and chair of the ICCFASD, the National Institute on Alcohol Abuse and Alcoholism (NIAAA) will be issuing a Request for Information to seek comments on the draft outline of the ICCFASD's 2022-2026 Strategic Plan from diverse stakeholders, including scientific experts, health care providers, patients and family members, advocacy groups, other federal agencies, and non-governmental scientific, professional, and healthcare organizations.

**DATES:** Comments must be received by August 31, 2021, to ensure consideration. Responses will be reviewed by ICCFASD members and considered during the development of the 2022-2026 Strategic Plan.

**ADDRESSES:** To view and comment on the strategic plan outline, please visit our online response form: RFI online response form.

**FOR FURTHER INFORMATION CONTACT:** Tatiana Balachova, ICCFASD Executive Secretary, National Institute on Alcohol Abuse and Alcoholism, NIH, 6700B Rockledge Drive, Bethesda, MD 20817. Phone: 301-443-5726, Email: [NIAAA-ICCFASD@mail.nih.gov](mailto:NIAAA-ICCFASD@mail.nih.gov).

**SUPPLEMENTARY INFORMATION:** In accordance with the 21st Century Cures Act, NIH institutes are required to

regularly update their strategic plans. The Interagency Coordinating Committee on Fetal Alcohol Spectrum Disorders (ICCFASD) fosters improved communication, cooperation, and collaboration among disciplines and federal agencies that address health, education, developmental disabilities, alcohol research, and social services and justice issues related to prenatal alcohol exposure. The ICCFASD envisions that collaborative partnerships, using the resources of the federal government in partnership with other organizations, will lead to improved prevention of prenatal alcohol exposure, earlier identification and improved surveillance of fetal alcohol spectrum disorders (FASD), and more effective interventions and services for individuals living with FASD as well as their families. ICCFASD is sponsored and chaired by the National Institute on Alcohol Abuse and Alcoholism.

**Vicki E. Buckley,**

*Associate Director of Administration,  
National Institute on Alcohol Abuse and  
Alcoholism, National Institutes of Health.*

[FR Doc. 2021-14689 Filed 7-9-21; 8:45 am]

BILLING CODE 4140-01-P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0046]

#### Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Interagency Alien Witness and Informant Record

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 30-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

**DATES:** Comments are encouraged and will be accepted until August 11, 2021.

**ADDRESSES:** Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be

submitted via the Federal eRulemaking Portal website at <http://www.regulations.gov> under e-Docket ID number USCIS-2006-0062. All submissions received must include the OMB Control Number 1615-0046 in the body of the letter, the agency name and Docket ID USCIS-2006-0062.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommnes, Chief, Telephone number (240) 721-3000 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <http://www.uscis.gov>, or call the USCIS Contact Center at (800) 375-5283; TTY (800) 767-1833.

#### SUPPLEMENTARY INFORMATION:

##### Comments

The information collection notice was previously published in the **Federal Register** on March 16, 2021, at 86 FR 14468, allowing for a 60-day public comment period. USCIS did not receive any comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: <http://www.regulations.gov> and enter USCIS-2006-0062 in the search box. The comments submitted to USCIS via this method are visible to the Office of Management and Budget and comply with the requirements of 5 CFR 1320.12(c). All submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <http://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Interagency Alien Witness and Informant Record.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I-854A and I-854B; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* *Primary:* Federal Government. The Form I-854 will enable the U.S. Immigration and Customs Enforcement (ICE) to fulfill those responsibilities. A law enforcement agency may request S nonimmigrant classification for an essential witness or informant by completing this form, which requires certifications by both the law enforcement agency (e.g., that it will collect the alien's statutorily-required quarterly reports and oversee the alien's departure, if that becomes necessary) and the alien. The law enforcement agency files a properly completed Form I-854 with the Criminal Division, Department of Justice, which may certify the law enforcement agency request to the U.S. Citizenship and Immigration Services (USCIS).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection I-854A is 10 and the estimated hour burden per response is 3 hours. The estimated total number of respondents for the information collection I-854B is 30 and the

estimated hour burden per response is 1 hour.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 60 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$0.

Dated: July 6, 2021.

**Jerry L Rigdon,**

*Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.*

[FR Doc. 2021-14707 Filed 7-9-21; 8:45 am]

BILLING CODE 9111-97-P

## DEPARTMENT OF HOMELAND SECURITY

### U.S. Citizenship and Immigration Services

[OMB Control Number 1615-0105]

#### Agency Information Collection Activities; Revision of a Currently Approved Collection: Notice of Entry of Appearance as Attorney or Accredited Representative

**AGENCY:** U.S. Citizenship and Immigration Services, Department of Homeland Security.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

**DATES:** Comments are encouraged and will be accepted for 60 days until September 10, 2021.

**ADDRESSES:** All submissions received must include the OMB Control Number 1615-0105 in the body of the letter, the agency name and Docket ID USCIS-2008-0037. Submit comments via the Federal eRulemaking Portal website at

<https://www.regulations.gov> under e-Docket ID number USCIS-2008-0037.

**FOR FURTHER INFORMATION CONTACT:** USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshombres, Chief, telephone number (240) 721-3000 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS website at <https://www.uscis.gov>, or call the USCIS Contact Center at 800-375-5283 (TTY 800-767-1833).

#### SUPPLEMENTARY INFORMATION:

##### Comments

You may access the information collection instrument with instructions or additional information by visiting the Federal eRulemaking Portal site at: <https://www.regulations.gov> and entering USCIS-2008-0037 in the search box. All submissions will be posted, without change, to the Federal eRulemaking Portal at <https://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of <https://www.regulations.gov>.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated,

electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

#### Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Notice of Entry of Appearance as Attorney or Accredited Representative.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G-28; G-28I; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. The data collected via the G-28 and G-28I is used by DHS to determine eligibility of the individual to appear as a representative. Form G-28 is used by attorneys admitted to practice in the United States and accredited representatives of certain non-profit organizations recognized by the Department of Justice. Form G-28I is used by attorneys admitted to the practice of law in countries other than the United States and only in matters in DHS offices outside the geographical confines of the United States. If the representative is eligible, the form is filed with the case and the information is entered into DHS systems.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection G-28 is 3,429,825 and the estimated hour burden per response is 0.833 hours. The estimated total number of respondents for the information collection G-28 online filing is 281,950 and the estimated hour burden per response is 0.667 hours. The estimated total number of respondents for the information collection G-28I is 25,057 and the estimated hour burden per response is 0.700 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,062,645 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is \$0. Any costs associated with this collection of information are included in the cost of the primary forms with which Form G-28 (paper or online) or Form G-28I is filed.

Dated: July 6, 2021.

**Jerry L Rigdon,**

*Deputy Chief, Regulatory Coordination  
Division, Office of Policy and Strategy, U.S.  
Citizenship and Immigration Services,  
Department of Homeland Security.*

[FR Doc. 2021-14706 Filed 7-9-21; 8:45 am]

**BILLING CODE 9111-97-P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[Docket No. FWS-R2-ES-2020-0040;  
FXES1113020000-201-FF02ENEH00]

#### Endangered and Threatened Wildlife and Plants; Draft Revised Recovery Plan for Gila Trout

**AGENCY:** Fish and Wildlife Service,  
Interior.

**ACTION:** Notice of availability; request  
for comment.

**SUMMARY:** We, the U.S. Fish and  
Wildlife Service, announce the  
availability of our draft revised recovery  
plan for the Gila trout, listed as  
threatened under the Endangered  
Species Act. This fish species is  
endemic to mountain streams within the  
upper Gila River basin in New Mexico  
and Arizona. We provide this notice to  
seek comments from the public and  
Federal, Tribal, State, and local  
governments.

**DATES:** We must receive written  
comments on or before September 10,  
2021.

**ADDRESSES:**

*Reviewing Documents:* You may  
obtain a copy of the draft revised  
recovery plan and recovery  
implementation strategy in Docket No.  
FWS-R2-ES-2020-0040 at [http://  
www.regulations.gov](http://www.regulations.gov).

*Submitting Comments:* You may  
submit comments by one of the  
following methods:

- *Federal eRulemaking Portal:* [http://  
www.regulations.gov](http://www.regulations.gov). Follow the  
instructions for submitting comments  
on Docket No. FWS-R2-ES-2020-0040.

- *U.S.:* Public Comments Processing;  
Attn: Docket No. FWS-R2-ES-2019-  
0040; U.S. Fish and Wildlife Service  
Headquarters, MS: PRB/3W; 5275  
Leesburg Pike, Falls Church, VA 22041-  
3803.

For additional information about  
submitting comments, see Request for  
Public Comments and Public  
Availability of Comments under

**SUPPLEMENTARY INFORMATION.**

**FOR FURTHER INFORMATION CONTACT:**

Shawn Sartorius, Field Supervisor, New  
Mexico Ecological Services Field Office,

by phone at 505-761-4781, by email at  
[nmesfo@fws.gov](mailto:nmesfo@fws.gov), or via the Federal  
Relay Service at 800-877-8339 for TTY  
service.

**SUPPLEMENTARY INFORMATION:** We, the  
U.S. Fish and Wildlife Service (Service),  
announce the availability of our draft  
revised recovery plan for the Gila trout  
(*Oncorhynchus gilae*), listed as  
threatened under the Endangered  
Species Act of 1973, as amended (ESA;  
16 U.S.C. 1531 *et seq.*). Gila trout are  
endemic to mountain streams in the  
Gila, San Francisco, Agua Fria, and  
Verde River drainages in New Mexico  
and Arizona. The draft revised recovery  
plan includes site-specific management  
actions and objective, measurable  
criteria that, when met, will enable us  
to remove the Gila trout from the list of  
endangered and threatened wildlife. We  
request review and comment on this  
plan from local, State, and Federal  
agencies; Tribes; and the public. We  
will also accept any new information on  
the status of the Gila trout throughout  
its range to assist in finalizing the  
recovery plan.

**Background**

Recovery of endangered or threatened  
animals and plants to the point where  
they are again secure, self-sustaining  
members of their ecosystems is a  
primary goal of our endangered species  
program and the ESA. Recovery means  
improvement of the status of listed  
species to the point at which listing is  
no longer appropriate under the criteria  
set out in section 4(a)(1) of the ESA. The  
ESA requires the development of  
recovery plans for listed species, unless  
such a plan would not promote the  
conservation of a particular species. The  
Service approved the original recovery  
plan for the Gila trout on January 12,  
1979 (Service 1979), with subsequent  
revisions approved on January 3, 1984  
(Service 1984), December 8, 1993  
(Service 1993), and August 19, 2003  
(Service 2003).

This draft revised recovery plan for  
the Gila trout represents the fourth  
revision and considers updated  
information on genetics, population  
status, and threats (principally wildfire  
effects and hybridization) in the  
development of revised recovery  
objectives, criteria, and actions. We  
used a streamlined approach to recovery  
planning and implementation for the  
Gila trout by preparing separate  
recovery plan and recovery  
implementation strategy documents.  
The information in the draft recovery  
plan provides the biological  
background, a threats assessment, a  
strategy for recovery of the Gila trout,

quantitative delisting criteria, a list of  
prioritized recovery actions, and the  
estimated time and cost to recovery  
(Service 2020a). The separate recovery  
implementation strategy document  
further describes in detail the specific  
activities needed to implement the  
recovery actions (Service 2020b).

**Summary of Species Information**

Gila trout are endemic to mountain  
streams within the Gila, San Francisco,  
Agua Fria, and Verde River drainages in  
New Mexico and Arizona. Although  
Gila trout were documented to occur in  
the upper Gila River basin since at least  
1885, the species was not described  
until 1950, by which time its  
distribution had been dramatically  
reduced. On March 11, 1967, we listed  
the Gila trout as endangered under the  
Federal Endangered Species  
Preservation Act of 1966 (32 FR 4001).  
The Gila trout's endangered status was  
continued under the Endangered  
Species Act of 1973, and we reclassified  
it as a threatened species on July 18,  
2006, with a special rule under section  
4(d) of the ESA (71 FR 40657).

Gila trout are readily identified by  
their iridescent gold sides, which blend  
to a darker shade of copper on the  
opercles (bony plates surrounding the  
gills). Spots on the body are small and  
profuse, generally occurring above the  
lateral line and extending onto the head,  
dorsal fin, and caudal fin. These spots  
are irregularly shaped on the sides and  
increase in size dorsally. A few  
scattered spots are sometimes present  
on the anal fin, and the adipose fin is  
typically large and well spotted. Dorsal,  
pelvic, and anal fins have a white to  
yellowish tip that may extend along the  
leading edge of the pelvic fins. A yellow  
cutthroat mark is present on most  
mature specimens. Parr marks (vertical  
bars present when trout are less than a  
year old) are commonly retained by  
adults, and a faint, salmon-pink band is  
also present on adults, particularly  
during spawning season, when the  
normally white belly may be streaked  
with yellow or reddish orange.  
Spawning of Gila trout occurs mainly in  
April and begins when water  
temperatures reach about 8 °C (46 °F),  
but day length may also be an important  
cue. Gila trout fry [20 to 25 millimeters  
(mm), or 0.8 to 1.0 inches (in) total  
length] emerge in 56 to 70 days. Females  
reach maturity between two to four  
years after hatching, and males typically  
reach maturity at two or three years.  
Most individuals are mature at a length  
of 150 mm (6 in) or greater, and live five  
years. Thus, the majority of adult female  
Gila trout spawn only twice before

dying, and most adult males only spawn three or four times before dying.

Gila trout require perennial streamflow and coldwater aquatic habitats with unimpaired water quality to maintain persistent, viable populations. Flow regimes vary depending on the site-specific characteristics of stream reaches (e.g., stream gradient, seepage, substrate composition, channel dimensions, and watershed hydrology). Suitable water temperature regimes are characterized by maximum water temperatures that do not exceed approximately 20 °C (68 °F) for six or more consecutive hours in a 24-hour period on more than three consecutive days, and maximum temperature that do not exceed 24 °C (77 °F). Suitable water quality for Gila trout is characterized by high dissolved oxygen concentration, low turbidity and conductivity, low levels of total dissolved solids, near-neutral pH, and low conductivity. In addition to perennial stream flow and suitable water temperature and water quality, Gila trout require a diversity of habitats sufficient to sustain all life stages of the species (i.e., eggs, fry, juveniles, and adults). This includes suitable spawning habitat, habitat where fry can find shelter and food, and areas suitable for occupancy by juvenile and adult Gila trout. Sufficient pool habitat and spawning habitat are likely the two most important habitat features with respect to Gila trout population persistence.

Fragmentation of the historical distribution of Gila trout has resulted in several populations confined to small, isolated habitats throughout the range of the species. Collections from streams in the upper Gila River Basin and San Francisco River Basin, along with genetic analyses, indicate that five lineages of Gila trout exist: Main Diamond Creek, South Diamond Creek, Whiskey Creek, Spruce Creek, and Iron Creek. The distribution of these lineages has fluctuated since 1975, when only five remnant populations (i.e., a self-sustaining group of Gila trout inhabiting a single stream) were known. Currently, there are 17 extant populations of Gila trout inhabiting approximately 137.5 km (85.2 mi) of stream habitat. These include five populations of the Main Diamond Creek lineage, four populations of the South Diamond Creek lineage, three populations of the Whiskey Creek lineage, two populations of the Spruce Creek lineage, two populations of the Iron Creek lineage, and one population (Dude Creek), which is considered a mixed-lineage population (i.e., a stream or metapopulation that contains multiple lineages of Gila trout, instead of a single

lineage). Recently, the Spruce Creek and Whiskey Creek lineages each lost a population following large-scale, high-severity wildfires in 2011 and 2012, respectively.

For Gila trout to be able to sustain populations in the wild over time (viability), the species requires combinations of sufficiently large, healthy populations that, where possible, have connectivity to dendritic stream networks to maintain adequate population sizes and genetic variation. Dendritic stream networks provide Gila trout with access to suitable habitat enabling the species to respond to changes in their biological and physical environment (representation), environmental stochasticity (resiliency), and catastrophic events (redundancy). Few, if any, extant populations of Gila trout are large enough to survive extremes in environmental conditions, and the existing genetic diversity of the species is limited to five remnant lineages. Recovery actions implemented to date have increased the number of populations of Gila trout; however, the spatial distribution of populations is constrained by the patchy distribution and geographic isolation of cold-water streams, many of which are single-stream systems that are relatively small. Significant factors affecting the viability of Gila trout include habitat loss and fragmentation (Factor A) that result from large-scale, high-severity wildfire and the effects of climate change; unregulated angling (Factor B); predation and competition from nonnative fish that are naturalized throughout the Gila trout's historical range (Factor C); and hybridization with rainbow trout (*Oncorhynchus mykiss*) and small, isolated population sizes (Factor E).

#### Recovery Plan Goals

The objective of a recovery plan is to provide a framework for the recovery of a species so that protection under the ESA is no longer necessary. A recovery plan includes scientific information about the species and provides criteria and actions necessary for us to be able to reclassify the species to threatened status or remove it from the lists of endangered and threatened wildlife and plants. Recovery plans help guide our recovery efforts by describing actions we consider necessary for the species' conservation, and by estimating time and costs for implementing needed recovery measures.

In this revised recovery plan, we transition from a strategy of crisis-management focused on preventing extinction to an approach of establishing sustainable populations

throughout the historical range of the Gila trout, populations that contain the breadth of genetic diversity of the species. The recovery strategy for the Gila trout will entail incremental replacement of nonnative salmonids with Gila trout in suitable habitat throughout a significant portion of the historical range of the species. This strategy will be implemented by conducting actions to substantially improve redundancy, representation, and resiliency to the point that the species is no longer at risk for extinction and may be delisted. Recovery objectives include securing the existing genetic diversity of Gila trout, increasing the geographic distribution of the species, and increasing the size, dendritic population structure, and interconnectedness of populations. The revised recovery plan provides recovery criteria aimed at managing or eliminating threats to meet the goal of delisting the species. These recovery criteria are based on the area of occupied habitat within the Gila trout's presumed historical range, the conservation of genetically distinct Gila trout lineages, the establishment of dendritic metapopulations, and the absence and management of nonnative salmonids within Gila trout habitat. The site-specific management actions needed to address the threats to Gila trout viability and achieve the recovery criteria involve: (1) Repatriation of Gila trout to streams within its presumed historical range; (2) establishment and maintenance of captive propagation and hatchery facilities; (3) management of nonnative salmonids; (4) monitoring of Gila trout populations; (5) conducting public education and outreach; and (6) developing and implementing regulations to maintain sustainable Gila trout populations in streams open to sport fishing.

#### Request for Public Comments

Section 4(f) of the ESA requires us to provide public notice and an opportunity for public review and comment during recovery plan development. It is also our policy to request peer review of recovery plans (July 1, 1994; 59 FR 34270). In an appendix to the approved recovery plan, we will summarize and respond to the issues raised by the public and peer reviewers. Substantive comments may or may not result in changes to the recovery plan; comments regarding recovery plan implementation will be forwarded as appropriate to Federal or other entities so that they can be taken into account during the course of implementing recovery actions. Responses to individual commenters

will not be provided, but we will provide a summary of how we addressed substantive comments in an appendix to the approved recovery plan.

We invite written comments on the draft recovery plan. In particular, we are interested in additional information regarding the current threats to the species and the implementation of the recommended recovery actions.

#### Public Availability of Comments

All comments received, including names and addresses, will become part of the administrative record and will be available to the public. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

#### Authority

We developed our draft recovery plan and publish this notice under the authority of section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Amy L. Lueders,

Regional Director, Southwest Region, U.S. Fish and Wildlife Service.

[FR Doc. 2021-14733 Filed 7-9-21; 8:45 am]

BILLING CODE 4333-55-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-HQ-WSFR-2021-N161;  
FF09W25000-212-FXGO166409WSFR0;  
OMB Control Number 1018-0100]

#### Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Administrative Procedures for U.S. Fish and Wildlife Service Financial Assistance Programs

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of information collection; request for comment.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, we, the U.S. Fish and Wildlife Service, are proposing to renew an information collection with revisions.

**DATES:** Interested persons are invited to submit comments on or before August 11, 2021.

**ADDRESSES:** Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS: PRB (JAO/3W), 5275 Leesburg Pike, Falls Church, VA 22041-3803 (mail); or by email to [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov). Please reference OMB Control Number 1018-0100 in the subject line of your comments.

#### FOR FURTHER INFORMATION CONTACT:

Madonna L. Baucum, Service Information Collection Clearance Officer, by email at [Info\\_Coll@fws.gov](mailto:Info_Coll@fws.gov), or by telephone at (703) 358-2503. Individuals who are hearing or speech impaired may call the Federal Relay Service at 1-800-877-8339 for TTY assistance. You may also view the information collection request (ICR) at <http://www.reginfo.gov/public/do/PRAMain>.

**SUPPLEMENTARY INFORMATION:** In accordance with the Paperwork Reduction Act of 1995 (PRA, 44 U.S.C. 3501 *et seq.*) and 5 CFR 1320.8(d)(1), we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public’s reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

On October 9, 2020, we published in the *Federal Register* (85 FR 64158) a notice of our intent to request that OMB approve this information collection. In that notice, we solicited comments for 60 days, ending on December 8, 2020. We received one comment in response to the notice that did not address the information collection requirements. The commenter expressed general concerns about lack of transparency in Federal financial assistance funding, specifically funding awarded to a State fish and game agency and foreign assistance. The Service complies with all Federal financial assistance public transparency requirements. Data on all Service financial assistance programs are available at <https://beta.sam.gov/>.

Data on all Service award actions are available at <https://www.usaspending.gov/>. Data on the Service’s foreign assistance authorities and activities are available at <https://www.foreignassistance.gov/>. The Service also issues press releases for a wide variety of financial assistance programs. The Wildlife and Sport Fish Restoration Program routinely issues press releases for the mandatory formula grants to States awarded under the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act. The public can access Service press release archives at <https://www.fws.gov/news/>.

As part of our continuing effort to reduce paperwork and respondent burdens, we are again soliciting comments from the public and other Federal agencies on the proposed ICR that is described below. We are especially interested in public comment addressing the following:

(1) Whether or not the collection of information is necessary for the proper performance of the functions of the agency, including whether or not the information will have practical utility;

(2) The accuracy of our estimate of the burden for this collection of information, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) How might the agency minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of response.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Abstract:** We issue financial assistance through grants and cooperative agreement awards to individuals; commercial organizations; institutions of higher education; nonprofit organizations; foreign entities; and State, local, and Tribal governments. The Service administers a



wide variety of financial assistance programs, authorized by Congress to address the Service's mission, as listed in the System for Award Management (SAM) Assistance Listings, previously referred to as the Catalog of Federal Domestic Assistance. SAM provides public descriptions of assistance listings of Federal programs, projects, services, and activities that provide assistance or benefits to the American public. It contains financial and non-financial assistance programs administered by departments and establishments of the Federal government. The Assistance Listings are assigned unique numbers and provide information on program types, the specific type of assistance for each program, and the applicable financial assistance authorities for each program. See the Service's active Assistance Listings on *SAM.gov*.

The Service currently manages the following types of assistance programs:

- Formula Grants
- Project Grants
- Project Grants (Discretionary)
- Cooperative Agreements (Discretionary Grants)
- Direct Payments with Unrestricted Use
- Use of Property, Facilities, and Equipment

Some assistance programs are mandatory and award funds to eligible recipients according to a formula prescribed in law or regulation. Other programs are discretionary and award funds based on competitive selection and merit review processes. Mandatory award recipients must give us specific, detailed project information during the application process so that we may ensure that projects are eligible for the mandatory funding, are substantial in character and design, and comply with all applicable Federal laws. Applicants to discretionary programs must give us information as dictated by the program requirements and as requested in the program's public notice of funding opportunity, including that information that addresses ranking criteria. All recipients must submit financial and performance reports that contain information necessary for us to track costs and accomplishments. The recipients' reports must adhere to schedules and rules in 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" and the award terms and conditions. Part 200 prescribes the information that Federal agencies must collect, and financial assistance applicants and recipients must provide to receive benefits under Federal financial

assistance programs, and supports this information collection.

The Service provides technical and financial assistance to other Federal agencies, States, local governments, Native American tribes, nongovernmental organizations, citizen groups, and private landowners for the conservation and management of fish and wildlife resources. The process begins with the submission of an application. The respective program reviews and prioritizes proposed projects based on their respective project selection criteria. Pending availability of funding, applicants submit their application documents to the Service through the Federal *Grants.gov* website or through the Department's grants management system (currently the U.S. Department of Health and Human Services' GrantSolutions), when solicited by the Service through a Funding Opportunity.

As part of this collection of information, the Service collects the following types of information requiring approval under the PRA:

**A. Application Package:** We use the information provided in applications to: (1) Determine eligibility under the authorizing legislation and applicable program regulations; (2) determine allowability of major cost items under the Cost Principles at 2 CFR part 200; (3) select those projects that will provide the highest return on the Federal investment; and (4) assist in compliance with laws, as applicable, such as the National Environmental Policy Act, the National Historic Preservation Act, and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The full application package (submitted by the applicant) generally includes the following:

- Required Federal financial assistance application forms (SF-424 suite of forms, as applicable to specified project).
- Project Narrative—generally includes items such as:
  - Statement of need,
  - Project goals and objectives,
  - Methods used and timetable,
  - Description of key personnel qualifications,
  - Description of stakeholders or other relevant organizations/individuals involved and level of involvement,
  - Project monitoring and evaluation plan, and/or
  - Other pertinent project specific information.
- Pertinent project budget-related information—generally includes items such as:
  - Budget justification,

- Detail on costs requiring prior approval,
- Indirect cost statement,
- Federally funded equipment list, and/or
- Certifications and disclosures.

**B. Amendments:** Recipients must provide written explanation and submit prior approval requests for budget or project plan revisions, reporting due date extensions, or other changes to approved award terms and conditions. The information provided by the recipient is used by the Service to determine the eligibility and allowability of activities and to comply with the requirements of 2 CFR part 200.

**C. Reporting Requirements:** Reporting requirements associated with financial assistance awards generally include the following types of reports:

- Federal Financial Reports (using the required SF-425),
- Performance Reports, and
- Real Property Status Reports, when applicable (using the required SF-429 forms series).

**D. Recordkeeping Requirements:** In accordance with 2 CFR 200.334, financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of 3 years after the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity (in the case of a subrecipient) (unless an exemption as described in 2 CFR 200.334 applies that requires retention of records longer than 3 years).

### Proposed Revisions

*Consolidation of OMB Control No. 1018-0007 Into 1018-0100*

The Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669 *et seq.*) and the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777 *et seq.*, except 777e-1) provide authority for Federal assistance to the States for management and restoration of fish and wildlife. These Acts and the regulations in the Code of Federal Regulations (CFR) at 50 CFR part 80, subpart D, require that States, territories, and the District of Columbia annually certify their hunting and fishing license sales. The Service's Wildlife and Sport Fish Restoration (WSFR) program currently collects those certifications under OMB Control No. 1018-0007, "Annual

Certification of Hunting and Sport Fishing Licenses Issued, 50 CFR part 80, subpart D.” The WSFR program continues to enhance use of their “Wildlife Tracking and Reporting Actions for the Conservation of Species (TRACS)” system to collect information electronically from financial assistance applicants and recipients. As of Federal fiscal year 2021, WSFR will begin using TRACS to collect State license data and certifications electronically. As this control number includes the Wildlife TRACS system collection, in this revision we are consolidating the OMB Control No. 1018–0007 information collection requirements into this collection. If OMB approves this request, we will discontinue OMB Control Number 1018–0007.

Consolidation of OMB approvals for Service financial assistance-related collections into a single collection reduces burden on the public by ensuring consistency in the application and award administration processes across all Service financial assistance programs.

#### *Foreign Aid Transparency and Accountability Act Compliance*

We are implementing the enhanced results-oriented accountability requirements in the Foreign Aid Transparency and Accountability Act (Pub. L. 114–191), OMB guidance memorandum M–18–04, “Monitoring and Evaluation Guidelines for Federal Departments and Agencies that Administer United States Foreign Assistance,” and OMB revisions to 2 CFR part 200 published August 13, 2020 (85 FR 49506). To meet the enhanced requirements, some programs may collect more performance information than previously collected.

*Title of Collection:* Administrative Procedures for U.S. Fish and Wildlife Service Financial Assistance Programs.

*OMB Control Number:* 1018–0100.

*Form Number:* 3–154.

*Type of Review:* Revision of a currently approved collection.

*Respondents/Affected Public:* Individuals; commercial organizations; institutions of higher education; nonprofit organizations; foreign entities; and State, local, and Tribal governments.

*Total Estimated Number of Annual Respondents:* 14,711.

*Total Estimated Number of Annual Responses:* 16,024.

*Estimated Completion Time per Response:* Varies from 3 hours to 100 hours, depending on the activity.

*Total Estimated Number of Annual Burden Hours:* 391,670.

*Respondent’s Obligation:* Required to Obtain or Retain a Benefit.

*Frequency of Collection:* On occasion.

*Total Estimated Annual Nonhour*

*Burden Cost:* None.

An agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

The authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

**Madonna Baucum,**

*Information Collection Clearance Officer, U.S. Fish and Wildlife Service.*

[FR Doc. 2021–14675 Filed 7–9–21; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R4–ES–2020–N034;  
FXES1114040000–201–FF04E00000]**

#### **Endangered Species; Recovery Permit Applications**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications; request for comments.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, have received applications for permits, permit renewals and/or permit amendments to conduct activities intended to enhance the propagation or survival of endangered species under the Endangered Species Act of 1973, as amended. We invite the public and local, State, Tribal, and Federal agencies to comment on these applications. Before issuing any of the requested permits, we will take into consideration any information that we receive during the public comment period.

**DATES:** We must receive written data or comments on the applications by August 11, 2021.

**ADDRESSES:**

*Reviewing Documents:* Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act. Submit a request for a copy of such documents to Karen Marlowe (see **FOR FURTHER INFORMATION CONTACT**).

*Submitting Comments:* If you wish to comment, you may submit comments by one of the following methods:

- *U.S. Mail:* U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).

- *Email:* [permitsR4ES@fws.gov](mailto:permitsR4ES@fws.gov).

Please include your name and return address in your email message. If you do not receive a confirmation from the U.S. Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:**

Karen Marlowe, Permit Coordinator, 404–679–7097 (telephone), [karen\\_marlowe@fws.gov](mailto:karen_marlowe@fws.gov) (email), or 404–679–7081 (fax). Individuals who are hearing or speech impaired may call the Federal Relay Service at 1–800–877–8339 for TTY assistance.

**SUPPLEMENTARY INFORMATION:** We invite review and comment from local, State, and Federal agencies and the public on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR part 17. With some exceptions, the ESA prohibits take of listed species unless a Federal permit is issued that authorizes such take. The ESA’s definition of “take” includes hunting, shooting, harming, wounding, or killing, and also such activities as pursuing, harassing, trapping, capturing, or collecting.

A recovery permit issued by us under section 10(a)(1)(A) of the ESA authorizes the permittee to take endangered or threatened species while engaging in activities that are conducted for scientific purposes that promote recovery of species or for enhancement of propagation or survival of species. These activities often include the capture and collection of species, which would result in prohibited take were a permit not issued. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

#### **Permit Applications Available for Review and Comment**

Proposed activities in the following permit requests are for the recovery and enhancement of propagation or survival of the species in the wild. The ESA requires that we invite public comment before issuing these permits.

Accordingly, we invite local, State, Tribal, and Federal agencies and the public to submit written data, views, or arguments with respect to these applications. The comments and

recommendations that will be most useful and likely to influence agency decisions are those supported by quantitative information or studies.

Before including your address, phone number, email address, or other

personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment

to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 62026D-1	Catherine Haase, Austin Peay State University, Clarksville, TN.	Gray bat ( <i>Myotis grisescens</i> ), Indiana long-eared bat ( <i>Myotis sodalis</i> ), and northern long-eared bat ( <i>Myotis septentrionalis</i> ).	Kentucky and Tennessee	Study community structure and habitat use.	Hand-capture from culverts, identify, and release.	Amendment.
TE 32397A-5	James Godwin, Auburn University, Auburn, AL.	Alabama red-bellied turtle ( <i>Pseudemys alabamensis</i> ), eastern indigo snake ( <i>Drymarchon corais couperi</i> ), flat-tailed musk turtle ( <i>Sternotherus depressus</i> ) and Black Warrior waterdog ( <i>Necturus alabamensis</i> ).	Alabama and Mississippi	Population management, scientific research, population surveys, and monitoring.	Turtles: Capture, handle, mark by marginal scute, PIT-tag, collect tissue and blood samples, conduct oral and cloacal swabbing, salvage hatched or depredated eggs, monitor nests, and insert data logger into nests; Eastern indigo snake: Capture, handle, PIT-tag, collect blood, collect cloacal swab, and scale-clip Black Warrior waterdog: Capture, handle, temporarily hold to photograph and measure, PIT-tag, and collect tail tip tissue sample.	Renewal/Amendment.
TE 60238B-1	Georgia Museum of Natural History, Athens, GA.	Indiana bat ( <i>Myotis sodalis</i> ), gray bat ( <i>Myotis grisescens</i> ), and northern long-eared bat ( <i>Myotis septentrionalis</i> ).	Alabama, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.	Presence/absence surveys, studies to document habitat use, and population monitoring.	Capture with mist nets, handle, identify, and release.	Renewal/Amendment.
TE 087176-4	David Eisenhour, Morehead, KY.	Blackside dace ( <i>Chrosomus cumberlandensis</i> ), relict darter ( <i>Etheostoma chienense</i> ), duskytail darter ( <i>Etheostoma percnurum</i> ), Kentucky arrow darter ( <i>Etheostoma spilotum</i> ), Cumberland darter ( <i>Etheostoma susanae</i> ), and palezone shiner ( <i>Notropis albizonatus</i> ).	Kentucky and Tennessee	Presence/absence surveys.	Capture, handle, identify, and release ...	Renewal/Amendment.
TE 022690-5	Meadowview Biological Research Station, Woodford, VA.	<i>Sarracenia oreophila</i> (green pitcher plant), <i>Sarracenia rubra</i> ssp. <i>alabamensis</i> (Alabama canebrake pitcher plant), and <i>Sarracenia rubra</i> ssp. <i>jonessii</i> (mountain sweet pitcher plant).	Virginia	Interstate commerce.	Sale of artificially propagated specimens in interstate commerce.	Renewal.
TE 83011B-1	Prescott Weldon, Bristol, VA.	Gray bat ( <i>Myotis grisescens</i> ), Indiana bat ( <i>Myotis sodalis</i> ), and northern long-eared bat ( <i>Myotis septentrionalis</i> ).	Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys, population monitoring, and studies to document habitat use.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, and collect hair samples.	Renewal.
PER 0002010	Shawn Zeringue-Krosnick, Tennessee Tech, Cookeville, TN.	<i>Physaria globosa</i> (Short's bladderpod) ...	Federal lands in Tennessee	Examination of pollination, reproductive success, and life history traits.	Collection of flowers and seeds and collection of one voucher specimen from each population.	New.

TE 65002A-2 .....	Robert Oney, Versailles, KY.	Gray bat ( <i>Myotis grisescens</i> ), Indiana bat ( <i>Myotis sodalis</i> ), northern long-eared bat ( <i>Myotis septentrionalis</i> ), and Virginia big-eared bat ( <i>Corynorhinus townsendii virginianus</i> ).	Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys, population monitoring, and studies to document habitat use.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, and collect hair samples.	Renewal.
TE 148282-6 .....	Jack Wilhide, Franklin, TN.	Gray bat ( <i>Myotis grisescens</i> ), Indiana bat ( <i>Myotis sodalis</i> ), northern long-eared bat ( <i>Myotis septentrionalis</i> ), Ozark big-eared bat ( <i>Corynorhinus (= Plecotus townsendii ingens)</i> ), and Virginia big-eared bat ( <i>Corynorhinus (= Plecotus townsendii virginianus)</i> ).	Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys, population monitoring, and studies to document habitat use.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, light-tag, wing-punch, and collect hair samples.	Renewal.
TE 94849B-2 .....	Copperhead Environmental Consulting, Paint Lick, KY.	Gray bat ( <i>Myotis grisescens</i> ), Indiana bat ( <i>Myotis sodalis</i> ), northern long-eared bat ( <i>Myotis septentrionalis</i> ), Ozark big-eared bat ( <i>Corynorhinus (= Plecotus townsendii ingens)</i> ), and Virginia big-eared bat ( <i>Corynorhinus (= Plecotus townsendii virginianus)</i> ).	Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming.	Presence/absence surveys, studies to document habitat use, population monitoring, and to evaluate potential impacts of white-nose syndrome or other threats.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, collect hair samples, band, radio tag, light-tag, swab, and wing-punch.	Renewal/ Amendment.
PER 0002649 .....	Joey Weber, Candler, NC.	Gray bat ( <i>Myotis grisescens</i> ), Indiana bat ( <i>Myotis sodalis</i> ), northern long-eared bat ( <i>Myotis septentrionalis</i> ), and Virginia big-eared bat ( <i>Corynorhinus (= Plecotus townsendii virginianus)</i> ).	Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, Wyoming.	Presence/absence surveys, population monitoring, and studies to document habitat use.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, and collect hair samples.	New.
PER 0002076 .....	California Carnivores, Sebastopol, CA.	<i>Pinguicula ionantha</i> (Godfrey's butterwort), <i>Sarracenia oreophila</i> (green pitcher plant), <i>Sarracenia rubra</i> ssp. <i>alabamensis</i> (Alabama canebrake pitcher plant), and <i>Sarracenia rubra</i> ssp. <i>jonesii</i> (mountain Sweet pitcher plant).	California .....	Interstate commerce.	Sale of artificially propagated specimens in interstate commerce.	New.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER 0007863 .....	Jana Day, Kentucky Transportation Cabinet.	<p>FISH: Relict darter (<i>Etheostoma chienense</i>), Kentucky arrow darter (<i>Etheostoma spilotum</i>), Cumberland darter (<i>Etheostoma susanae</i>), palezone shiner (<i>Notropis albizonatus</i>), and blackside dace (<i>Phoxinus Cumberlandensis</i>); FRESH-WATER MUSSELS: Cumberland elktoe (<i>Alasmidonta atropurpurea</i>), spectaclecase (<i>Cumberlandia monodonta</i>), fanshell (<i>Cyprogenia stegaria</i>), dromedary pearlymussel (<i>Dromus dromas</i>), Cumberlandian combshell (<i>Epioblasma brevidens</i>), oyster mussel (<i>Epioblasma capsaeformis</i>), tan riffleshell (<i>Epioblasma florentina walkeri</i>), purple cat's paw (=purple cat's paw pearlymussel) (<i>Epioblasma obliquata obliquata</i>), white catspaw (pearlymussel) (<i>Epioblasma obliquata perobliqua</i>), northern riffleshell (<i>Epioblasma torulosa rangiana</i>), tubercled blossom (pearlymussel) (<i>Epioblasma torulosa torulosa</i>), snuffbox (<i>Epioblasma triquetra</i>), cracking pearlymussel (<i>Hemistena lata</i>), pink mucket (pearlymussel) (<i>Lampsilis abrupta</i>), scaleshell mussel (<i>Leptodea leptodon</i>), ring pink mussel (pearlymussel (<i>Obovaria retusa</i>), littling pearlymussel (<i>Pegias fabula</i>), white wartyback (pearlymussel) (<i>Plethobasus cicatricosus</i>), orangefoot pimpleback (pearlymussel) (<i>Plethobasus cooperianus</i>), sheepnose mussel (<i>Plethobasus cyphus</i>), clubshell (<i>Pleurobema clava</i>), rough pigtoe (<i>Pleurobema pleurum</i>), slabside pearlymussel (<i>Pleurobema dolabellioides</i>), fat pocketbook (<i>Potamilus capax</i>), fluted kidneyshell (<i>Ptychobranchus subtentus</i>), rabbitsfoot (<i>Quadrula cylindrica</i>), winged mapleleaf (<i>Quadrula fragosa</i>), rayed bean (<i>Villosa fabalis</i>), and Cumberlandian bean (pearlymussel) (<i>Villosa irabalis</i>); CRAYFISH: Big Sandy crayfish (<i>Cambarus callinus</i>).</p>	Kentucky .....	Presence/absence surveys.	Capture, handle, identify, and release ...	New.
TE 33465A-2 .....	USDA Forest Service, National Forests in Alabama, Montgomery, AL.	Red-cockaded woodpecker ( <i>Picoides borealis</i> ).	Alabama, Florida, Georgia, Mississippi, and South Carolina.	Population management and monitoring.	Capture, band, drill nest cavities, install inserts, install restrictors, install snake and squirrel excluders, monitor nest cavities and artificial nest cavities, and translocate.	Amend.

TE 132772-2 .....	USDA Forest Service, National Forests in Alabama, Montgomery, AL.	REPTILE: Flattened musk turtle ( <i>Sternotherus depressus</i> ); FISH: Blue shiner ( <i>Cyprinella caerulea</i> ), Cahaba shiner ( <i>Notropis cahabae</i> ), goldline darter ( <i>Percina aurilineata</i> ), and rush darter ( <i>Etheostoma phytophilum</i> ); FRESHWATER MUSSELS: Alabama moccasinshell ( <i>Medionidus acutissimus</i> ), Alabama pearshell ( <i>Margaritifera marrianae</i> ), Coosa moccasinshell ( <i>Medionidus parvulus</i> ), Cumberlandian combshell ( <i>Epioblasma brevidens</i> ), dark pigtoe ( <i>Pleurobema furvum</i> ), fine-lined pocketbook ( <i>Lampsilis altilis</i> ), fuzzy pigtoe ( <i>Pleurobema strodeanum</i> ), orange-nacre mucket ( <i>Lampsilis perovalis</i> ), ovate clubshell ( <i>Pleurobema perovatum</i> ), southern acornshell ( <i>Epioblasma othacogensis</i> ), southern clubshell ( <i>Pleurobema decisum</i> ), southern kidneyshell ( <i>Ptychobranchus jonesi</i> ), southern pigtoe ( <i>Pleurobema georgianum</i> ), southern sandshell ( <i>Hamiola australis</i> ), triangular kidneyshell ( <i>Ptychobranchus greenii</i> ), and upland combshell ( <i>Epioblasma metastrata</i> ); FRESHWATER GAS-TROPODS: Cylindrical lioplax ( <i>Lioplax cyclostomatiformis</i> ), flat pebblesnail ( <i>Lepyrium showalteri</i> ), lacy elimia ( <i>Elimia crenatella</i> ), painted rocksnail ( <i>Leptoxis taeniata</i> ), round rocksnail ( <i>Leptoxis ampla</i> ), and tulotoma snail ( <i>Tulotoma magnifica</i> ).	National forests in Alabama .....	Surveys and population monitoring.	Capture, identify, measure, release, and salvage relic shells.	Renewal.
TE 12399A-5 .....	Audubon Nature Institute, New Orleans, LA.	Green ( <i>Chelonia mydas</i> ), Kemp's ridley ( <i>Lepidochelys kempii</i> ), hawksbill ( <i>Eretmochelys imbricata</i> ), leatherback ( <i>Dermochelys coriacea</i> ), loggerhead ( <i>Caretta caretta</i> ), and olive ridley ( <i>Lepidochelys olivacea</i> ) sea turtles.	Louisiana .....	Monitoring of rehabilitated turtles.	Insert PIT tag and attach flipper tag prior to release.	Renewal.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER 0002667 .....	Mitchell D. Krieger, Erlanger, KY.	Spectaclecase ( <i>Cumberlandia monodonta</i> ), fanshell ( <i>Cyrogenia stegaria</i> ), dromedary pearly mussel ( <i>Dromus dromas</i> ), Cumberlandian combshell ( <i>Epioblasma brevidens</i> ), oyster mussel ( <i>Epioblasma capsaeformis</i> ), purple cat's paw (=purple cat's paw pearly mussel) ( <i>Epioblasma obliquata obliquata</i> ), white cat's paw pearly mussel ( <i>Epioblasma obliquata perobliquata</i> ), northern riffleshell ( <i>Epioblasma torulosa rangiana</i> ), tubercled blossom pearly mussel ( <i>Epioblasma torulosa torulosa</i> ), snuffbox ( <i>Epioblasma triquetra</i> ), cracking pearly mussel ( <i>Hemistena lata</i> ), pink mucket (pearly mussel) ( <i>Lampsilis abrupta</i> ), Higgins eye pearly mussel ( <i>Lampsilis higginsii</i> ), ring pink (mussel) ( <i>Obovaria retusa</i> ), white wartyback pearly mussel ( <i>Plethobasus cicatricosus</i> ), orangefoot pimpleback (pearly mussel) ( <i>Plethobasus cooperianus</i> ), sheepnose mussel ( <i>Plethobasus cyphus</i> ), clubshell ( <i>Pleurobema clava</i> ), James spiny mussel ( <i>Pleurobema collina</i> ), rough pigtoe ( <i>Pleurobema plenum</i> ), fat pocketbook ( <i>Potamilus capax</i> ), fluted kidneyshell ( <i>Ptychobranchius subtentus</i> ), rabbitsfoot ( <i>Quadrula cylindrica</i> ), winged mapleleaf ( <i>Quadrula fragosa</i> ), rayed bean ( <i>Villosa fabalis</i> ), and Cumberlandian bean (pearly mussel) ( <i>Villosa irabalis</i> ).	Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin.	Presence/absence surveys.	Capture, handle, identify, and release ...	New.
TE 66445B-1 .....	Angelina D. Fowler, Nashville, TN.	FISH: Blue shiner ( <i>Cyprinella caerulea</i> ), boulder darter ( <i>Etheostoma wapiti</i> ), and snail darter ( <i>Percina tanasi</i> ); CRAYFISH: Nashville crayfish ( <i>Orconectes shoupi</i> ).	Alabama and Tennessee .....	Presence/absence surveys.	Capture, handle, identify, and release ...	Renewal.
PER 0002899 .....	George C. Fullerton, Tallahassee, FL.	Red-cockaded woodpecker ( <i>Picoides borealis</i> ).	Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina.	Population management and monitoring.	Capture, band, drill nest cavities, install inserts, install restrictors, monitor nest cavities and artificial nest cavities, and translocate.	New.
PER 0003043 .....	National Audubon Society, Moss Point, MS.	Green ( <i>Chelonia mydas</i> ), Kemp's ridley ( <i>Lepidochelys kempi</i> ), hawksbill ( <i>Eretmochelys imbricata</i> ), leatherback ( <i>Dermochelys coriacea</i> ), loggerhead ( <i>Caretta caretta</i> ), and olive ridley ( <i>Lepidochelys olivacea</i> ) sea turtles.	Harrison County, Mississippi .....	Nest monitoring .....	Locate and mark nests, excavate nests following hatching emergence, and inventory hatched nests.	New.



TE 171516-9 .....	Copperhead Environmental Consulting, Inc., Paint Lick, KY.	FISH: Kentucky arrow darter ( <i>Etheostoma spilotum</i> ), Cumberland darter ( <i>Etheostoma susanae</i> ), and blackside dace ( <i>Phoxinus phoxinus</i> ) MUSSELS: Freshwater (Cumberland) elktoe ( <i>Alasmidonta atropurpurea</i> ), spectaclecase ( <i>Cumberlandia monodonta</i> ), fanshell ( <i>Cyprogenia stegaria</i> ), dromedary pearlymussel ( <i>Dromus dromas</i> ), Cumberlandian combshell ( <i>Epioblasma brevidens</i> ), oyster mussel ( <i>Epioblasma capsaeformis</i> ), yellow blossom pearlymussel ( <i>Epioblasma florentina florentina</i> ), tan riffleshell ( <i>Epioblasma florentina walkeri</i> ), purple cat's paw (=purple cat's paw pearlymussel) ( <i>Epioblasma obliquata obliquata</i> ), northern riffleshell ( <i>Epioblasma torulosa rangiana</i> ), green blossom pearlymussel ( <i>Epioblasma torulosa gubermaculum</i> ), tubercled blossom pearlymussel ( <i>Epioblasma torulosa torulosa</i> ), snuffbox ( <i>Epioblasma triquetra</i> ), turgid blossom pearlymussel ( <i>Epioblasma turgidula</i> ), finerayed pigtoe ( <i>Fusconia cuneolus</i> ), shiny pigtoe ( <i>Fusconia cor</i> ), cracking pearlymussel ( <i>Hemistena lata</i> ), pink mucket pearlymussel ( <i>Lampsilis abrupta</i> ), scaleshell mussel ( <i>Leptodea leptodon</i> ), ring pink ( <i>Obovaria retusa</i> ), littlewing pearlymussel ( <i>Pegias fabula</i> ), white wartyback pearlymussel ( <i>Plethobasus cicatricosus</i> ), orangefoot pimpleback pearlymussel ( <i>Plethobasus cooperianus</i> ), sheepnose mussel ( <i>Plethobasus cyphus</i> ), clubshell ( <i>Pleurobema clava</i> ), James spiny mussel ( <i>Pleurobema collina</i> ), southern clubshell ( <i>Pleurobema decisum</i> ), rough pigtoe ( <i>Pleurobema plenum</i> ), slabside pearlymussel ( <i>Pleurobema dolabelloides</i> ), fat pocketbook ( <i>Polanillus capax</i> ), fluted kidneyshell ( <i>Ptychobranchus subtentus</i> ), rabbitfoot ( <i>Quadrula cylindrica cylindrica</i> ), rough rabbitfoot ( <i>Quadrula cylindrica strigillata</i> ), Appalachian monkeyface pearlymussel ( <i>Quadrula sparsa</i> ), rayed bean ( <i>Villosa fabalis</i> ), purple bean ( <i>Villosa perpurpurea</i> ), and Cumberland bean pearlymussel ( <i>Villosa trabalis</i> ); CRAYFISH: Big Sandy crayfish ( <i>Cambarus callainus</i> ).	Arkansas, Georgia, Illinois, Indiana, Kentucky, Missouri, Ohio, Tennessee, Virginia, West Virginia, and Wisconsin.	Presence/absence surveys.	Capture, handle, identify, release, and salvage relic shells.	Renewal/ Amendment.
TE 86778B-2 .....	John W. Lamb, Arnold Air Force Base, TN.	Gray bat ( <i>Myotis grisescens</i> ), Indiana bat ( <i>Myotis sodalis</i> ), and northern long-eared bat ( <i>Myotis septentrionalis</i> ).	Tennessee .....	Contaminant study	Collect fur and guano .....	Amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
PER 0004778	Catherine M. Jachowski, Clemson University, Clemson, SC.	Carolina heelsplitter ( <i>Lasnigona decorata</i> ).	South Carolina	Investigation of impediments to recruitment.	Collect glochidia from fish fins and gills to sacrifice for DNA analysis, release captive-reared individuals produced at Orangeburg National Fish Hatchery into silos for growth and survival monitoring that includes weekly handling and measuring.	New.
TE 12379D-1	Robert A. McCleery, University of Florida, Gainesville, FL.	Rice rat (silver rice rat) ( <i>Oryzomys palustris natator</i> ).	Monroe County, Florida, from Little Pine Key to Boca Chica Key.	Assessing the impacts of Hurricane Irma on the rice rat.	Radio-tag adults and monitor movements.	Amendment.
TE 54891B-1	Luke E. Dodd, Eastern Kentucky University, Richmond, KY.	Gray bat ( <i>Myotis grisescens</i> ), Indiana long-eared bat ( <i>Myotis sodalis</i> ), and northern long-eared bat ( <i>Myotis septentrionalis</i> ).	Kentucky	Presence/absence surveys and studies to document habitat use.	Enter hibernacula or maternity roost caves, salvage dead bats, capture with mist nets and harp-traps, handle, identify, collect hair, band, attach radio-transmitters, swab, and wing-punch.	Renewal.
TE 069754-7	Gerald R. Dinkins, Knoxville, TN.	FISH: 38 species; FRESHWATER MUSSELS: 88 species; FRESHWATER GASTROPODS: 14 species.	Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin.	Presence/absence surveys.	Capture, handle, identify, release, and salvage relic shells.	Renewal/Amendment.
TE 62778B-2	Chanston T. Osborne, Aberdeen, NC.	Gray bat ( <i>Myotis grisescens</i> ), Indiana long-eared bat ( <i>Myotis sodalis</i> ), and northern long-eared bat ( <i>Myotis septentrionalis</i> ).	Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys.	Capture with mist nets and harp traps, handle, identify, band, and attach radio transmitters.	Renewal.
TE 237537-2	Missouri Botanical Garden, St. Louis, MO.	Price's potato bean ( <i>Aptios priceana</i> ), Cumberland sandwort ( <i>Arenaria cumberlandensis</i> ), Mead's milkweed ( <i>Asclepias meadii</i> ), Guthrie's (=Pyne's) ground-plum ( <i>Astragalus bibullatus</i> ), decurrent false aster ( <i>Boltonia decurrens</i> ), Cumberland rosemary ( <i>Conradina verticillata</i> ), leaty prairie clover ( <i>Dalea foliolosa</i> ), tiny tim ( <i>Geocarpon minimum</i> ), Virginia sneezeweed ( <i>Helenium virginicum</i> ), fleshyfruit gladiolus ( <i>Leavenworthia crassa</i> ), Mohr's Barbara's button ( <i>Marshallia mohrii</i> ), Missouri bladderpod ( <i>Physaria filiformis</i> ), Short's bladderpod ( <i>Physaria globose</i> ), Virginia spiraea ( <i>Spiraea virginiana</i> ), running buffalo clover ( <i>Trifolium stoloniferum</i> ), and Tennessee yellow-eyed grass ( <i>Xyris tennesseensis</i> ).	On lands under Federal jurisdiction in Alabama, Illinois, Kentucky, Mississippi, Missouri, Tennessee, Virginia, and West Virginia.	<i>Ex situ</i> seed banking, artificial propagation, conservation research, education, and genetic analyses.	Remove and reduce to possession (collect) seeds and leaves.	Renewal/Amendment.

TE	CCR Environmental, Inc., Atlanta, GA.	REPTILES: Eastern indigo snake ( <i>Drymarchon corais couperi</i> ), gopher tortoise ( <i>Gopherus polyphemus</i> ), yellow-blotched map turtle ( <i>Graptemys flavimaculata</i> ), ringed map turtle ( <i>Graptemys oculifera</i> ), black pine snake ( <i>Pituophis melanoleucus lodingi</i> ), Alabama red-bellied turtle ( <i>Pseudemys alabamensis</i> ), and flat-tailed musk turtle ( <i>Sternotherus depressus</i> ); AMPHIBIANS: Reticulated flatwoods salamander ( <i>Ambystoma bishopi</i> ), frosted flatwoods salamander ( <i>Ambystoma cingulatum</i> ), Black warrier (=Sipsey Fork) waterdog ( <i>Necturus alabamensis</i> ), Red Hills salamander ( <i>Phaeognathus hubrichti</i> ), and dusky gopher frog ( <i>Rana sevosa</i> ); FISH: 45 species; FRESHWATER MUSSELS: 81 species; FRESHWATER GAS-TROPODS: 12 species; CRAYFISH: Nashville crayfish ( <i>Orconectes shoupi</i> ).	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina, and Tennessee.	Presence/absence surveys.	Capture, identify, release, and salvage relic shells.	Renewal/ Amendment.
TE 059008-9	CCR Environmental, Inc., Atlanta, GA.	REPTILES: Eastern indigo snake ( <i>Drymarchon corais couperi</i> ), gopher tortoise ( <i>Gopherus polyphemus</i> ), yellow-blotched map turtle ( <i>Graptemys flavimaculata</i> ), ringed map turtle ( <i>Graptemys oculifera</i> ), black pine snake ( <i>Pituophis melanoleucus lodingi</i> ), Alabama red-bellied turtle ( <i>Pseudemys alabamensis</i> ), and flat-tailed musk turtle ( <i>Sternotherus depressus</i> ); AMPHIBIANS: Reticulated flatwoods salamander ( <i>Ambystoma bishopi</i> ), frosted flatwoods salamander ( <i>Ambystoma cingulatum</i> ), Black warrier (=Sipsey Fork) waterdog ( <i>Necturus alabamensis</i> ), Red Hills salamander ( <i>Phaeognathus hubrichti</i> ), and dusky gopher frog ( <i>Rana sevosa</i> ); FISH: 45 species; FRESHWATER MUSSELS: 81 species; FRESHWATER GAS-TROPODS: 12 species; CRAYFISH: Nashville crayfish ( <i>Orconectes shoupi</i> ).	Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Carolina, and Tennessee.	Presence/absence surveys.	Capture, identify, release, and salvage relic shells.	Renewal/ Amendment.
TE 59798B-2	Daguna Consulting, LLC, Rochester, MN.	Dwarf wedgemussel ( <i>Alasmidonta heterodon</i> ), yellow lance ( <i>Elliptio lanceolatus</i> ), and James spiny mussel ( <i>Pleurobema collina</i> ).	Virginia	Presence/absence surveys.	Capture, handle, identify, measure, age by examining growth rings, sex, photograph, PIT-tag or plastic shell tag, mark, and release.	Amendment.
TE 13910A-3	Terry L. Derting, Murray State University, Murray, KY.	Gray bat ( <i>Myotis grisescens</i> ), Indiana eared bat ( <i>Myotis septentrionalis</i> ), Virginia big-eared bat ( <i>Corynorhinus townsendii virginianus</i> ), and Ozark big-eared bat ( <i>Corynorhinus townsendii ingens</i> ).	Georgia, Indiana, Kentucky, Ohio, Tennessee, and West Virginia.	Presence/absence surveys, habitat use studies, population monitoring, and studies to evaluate potential impacts of white-nose syndrome or other threats.	Enter hibernacula or maternity roost caves, salvage dead bats, capture with mist nets and harp-traps, handle, identify, collect hair, band, attach radio-transmitters, light-tag, swab, and wing-punch.	Renewal.
TE 89785B-1	North Florida Wildlife, LLC, Crawfordville, FL.	Red-cockaded woodpecker ( <i>Picoides borealis</i> ).	Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Texas, and Virginia.	Population management and monitoring.	Capture, band, monitor nest cavities, construct and monitor artificial nest cavities and restrictors, and translocate.	Renewal.
TE 84778A-3	U.S. Geological Survey, Blacksburg, VA.	Gray bats ( <i>Myotis grisescens</i> ), Indiana eared bat ( <i>Myotis sodalis</i> ), northern long-eared bat ( <i>Myotis septentrionalis</i> ), and Virginia big-eared bat ( <i>Corynorhinus townsendii virginianus</i> ).	Alabama, Arkansas, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys, habitat use studies, population monitoring, and studies on potential impacts of white-nose syndrome or other threats.	Enter hibernacula or maternity roost caves, salvage dead bats, capture with mist nets or harp traps, handle, identify, collect hair samples, band, radio tag, light-tag, swab, and wing-punch.	Renewal.
TE 84997D-0	James V. Freeman, Williston, FL.	<i>Cereus eriophorus</i> var. <i>fragrans</i> (fragrant prickly-apple) and <i>Harrisia</i> (= <i>Cereus aboriginum</i> (= <i>gracilis</i> ) (aboriginal prickly-apple)).	Florida	Interstate commerce.	Sell artificially propagated plants in interstate commerce.	New.
TE 087191-6	Sandhills Ecological Institute, Southern Pines, NC.	Red-cockaded woodpecker ( <i>Picoides borealis</i> ).	North Carolina and South Carolina	Disease research	Capture and recapture birds that exhibit Avian Keratin Disorder to monitor their fate in the population.	Amendment.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
ES 56588D-2 .....	Martin J. Meville, Marietta, GA.	<p>FISH: Spring pygmy sunfish (<i>Elassoma alabamae</i>), vermilion darter (<i>Etheostoma chermocki</i>), watercress darter (<i>Etheostoma nuchale</i>), and Cahaba shiner (<i>Notropis cahabae</i>); FRESHWATER MUSSELS: Purple cat's paw (=purple cat's paw obliquata), Alabama pearlshell (<i>Margaritifera marrianae</i>), black clubshell (<i>Pleurobema curtum</i>), dark pigtoe (<i>Pleurobema furvum</i>), flat pigtoe (<i>Pleurobema marshali</i>), heavy pigtoe (<i>Pleurobema taiitianum</i>), inflated heelsplitter (<i>Potamilus inflatus</i>), and stirrupshell (<i>Quadrula stapes</i>).</p>	Alabama and Virginia .....	Presence/absence surveys.	Capture, handle, identify, release, and salvage relic shells.	Amendment.
PER 0009923 .....	South Carolina Department of Natural Resources, Columbia, SC.	Carolina heelsplitter ( <i>Lasmgiona decorata</i> ).	South Carolina .....	Captive propagation for research and reintroduction.	Capture, hold in captivity for more than 45 consecutive days, toxicity testing and other studies, and reintroduction.	New.
TE 121073-3 .....	Christopher E. Skelton, Madison, GA.	<p>FISH: Laurel dace (<i>Chrosomus saylori</i>), blue shiner (<i>Cyprinella caerulea</i>), bluemask darter (<i>Etheostoma akatulo</i>), Etowah darter (<i>Etheostoma etowahae</i>), duskytail darter (<i>Etheostoma percnurum</i>), Cherokee darter (<i>Etheostoma scotti</i>), Cumberland darter (<i>Etheostoma susanae</i>), boulder darter (<i>Etheostoma wapiti</i>), palezone shiner (<i>Notropis albizonatus</i>), smoky madtom (<i>Noturus baileyi</i>), chucky madtom (<i>Noturus crypticus</i>), pygmy madtom (<i>Noturus stanaulti</i>), amber darter (<i>Percina antesella</i>), goldline darter (<i>Percina aurilineata</i>), Conasauga logperch (<i>Percina jenkinsi</i>), snail darter (<i>Percina tanasi</i>), and blackside dace (<i>Proximus cumberlandensis</i>);</p>	Alabama, Florida, Georgia, and Tennessee.	Presence/absence surveys.	Capture, handle, identify, release, and salvage relic shells.	Renewal.

<p>FRESHWATER MUSSELS:                  threeridge (muschel) (<i>Amblema neiseri</i>), purple bankclimber (muschel) (<i>Elliptoides sloatianus</i>), Altamaha spiny mussel (<i>Elliptio spinosa</i>), upland combshell (<i>Epioblasma metastriata</i>), southern acornshell (<i>Epioblasma othcaloogensis</i>), southern combshell (<i>Epioblasma penita</i>), fine-lined pocketbook (<i>Lampsilis aifilis</i>), orangenacre mucket (<i>Lampsilis perovalis</i>), shinyrayed pocketbook (<i>Lampsilis subangulata</i>); Coosa moccasinshell (<i>Medionidus parvulus</i>), Gulf moccasinshell (<i>Medionidus pencillatus</i>), Ochlockonee moccasinshell (<i>Medionidus simpsonianus</i>), southern clubshell (<i>Pleurobema decisum</i>), southern pigtoe (<i>Pleurobema georgianum</i>), Georgia pigtoe (<i>Pleurobema hanleyianum</i>), flat pigtoe (<i>Pleurobema marshali</i>), ovate clubshell (<i>Pleurobema perovatum</i>), oval pigtoe (<i>Pleurobema pyriforme</i>), and triangular kidneyshell (<i>Ptychobranchus greeni</i>); FRESHWATER GAS TROPOD: Interrupted (=Georgia) rocksnail (<i>Leptoxis foremani</i>); CRAYFISH: Nashville crayfish (<i>Orconectes shoupi</i>).</p>	<p>Tennessee .....</p>	<p>Presence/absence surveys.                  Research on genetics and habitable range.                  Voucher specimen for species confirmation.                  Population management and monitoring and investigation of possible parasites and infections.                  Population monitoring.</p>	<p>Capture, identify, sex, and measure .....</p>	<p>Renewal.</p>
<p>Nashville crayfish (<i>Orconectes shoupi</i>)</p>	<p>Pisgah National Forest, North Carolina</p>	<p>Research on genetics and habitable range.</p>	<p>Tissue and seed collection, propagation, and augmentation.</p>	<p>New.</p>
<p><i>Hedyotis purpurea</i> var. <i>montana</i> (Roan Mountain bluet).</p>	<p>Blue Ridge Parkway, Franklin County, Virginia.</p>	<p>Voucher specimen for species confirmation.</p>	<p>Collection of stem, leaves, and flowers</p>	<p>Amendment.</p>
<p><i>Helianthus verticillatus</i> (whorled sunflower).</p>	<p>Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Texas, and Virginia.</p>	<p>Population management and monitoring and investigation of possible parasites and infections.</p>	<p>Capture, band, monitor nest cavities, construct and monitor artificial nest cavities and restrictors, translocate, recapture to remove color bands, and swab.</p>	<p>Renewal.</p>
<p>Red-cockaded woodpecker (<i>Picoides borealis</i>).</p>	<p>Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas.</p>	<p>Population monitoring.</p>	<p>PIT-tag and flipper tag stranded, incidentally captured, cold-stunned, and rehabilitated individuals.</p>	<p>Amendment.</p>
<p>Leatherback sea turtle (<i>Dermochelys coriacea</i>), hawksbill sea turtle (<i>Eretmochelys imbricata</i>), and Kemp's ridley sea turtle (<i>Lepidochelys kempi</i>).</p>	<p>Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, and Texas.</p>	<p>Population monitoring, scientific research, captive propagation, and reintroduction.</p>	<p>Capture up to 20 adult butterflies annually for captive rearing and breeding and transport specimens to Michigan State University.</p>	<p>Amendment.</p>
<p>Saint Francis' satyr butterfly (<i>Neonympha mitchellii francisci</i>).</p>	<p>North Carolina .....</p>	<p>Population monitoring, scientific research, captive propagation, and reintroduction.</p>	<p>Capture up to 20 adult butterflies annually for captive rearing and breeding and transport specimens to Michigan State University.</p>	<p>Amendment.</p>

TE 111326-3 .....

PER 0010455 .....

TE 37652B-1 .....

TE 807672-19 .....

TE 676379-6 .....

TE 054973-6 .....

Christopher A. Fleming,  
 Nashville, TN.  
 Kira Lindelof, North  
 Carolina University,  
 Raleigh, NC.  
 Blue Ridge Parkway,  
 National Park Service,  
 Joseph H. Carter,  
 Asheville, NC.  
 Southern Pines, NC.

NOAA/National Marine  
 Fisheries Service,  
 Southeast Fisheries  
 Science Center,  
 Pascagoula, MS.  
 Nick M. Haddad, Michigan  
 State University,  
 Hickory Corners, MI.

Permit application No.	Applicant	Species	Location	Activity	Type of take	Permit action
TE 65346A-2 .....	Matthew S. Roberts, Richmond, KY.	Gray bat ( <i>Myotis grisescens</i> ), Indiana bat ( <i>Myotis sodalis</i> ), and northern long-eared bat ( <i>Myotis septentrionalis</i> ).	Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, West Virginia, Wisconsin, and Wyoming.	Presence/absence surveys, population monitoring, and studies to document habitat use.	Enter hibernacula or maternity roost caves, capture with mist nets or harp traps, handle, identify, band, radio-tag, collect hair samples, and salvage.	Renewal.

**Authority**

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

**John Tirpak,**

*Deputy Assistant Regional Director,  
Ecological Services.*

[FR Doc. 2021-14683 Filed 7-9-21; 8:45 am]

**BILLING CODE 4333-15-P**

**DEPARTMENT OF LABOR****Employment and Training  
Administration****Workforce Information Advisory  
Council; Charter Renewal**

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of renewal.

**SUMMARY:** The Department of Labor (Department) announces the renewal of the Workforce Information Advisory Council (WIAC) charter.

**FOR FURTHER INFORMATION CONTACT:**

Steve Rietzke, Division of National Programs, Tools, and Technical Assistance, Office of Workforce Investment (address above); (202) 693-3912; or use email address for the WIAC, [WIAC@dol.gov](mailto:WIAC@dol.gov).

**SUPPLEMENTARY INFORMATION:****I. Background and Authority**

Section 15 of the Wagner-Peyser Act, 29 U.S.C. 49 *l-2*, as amended by section 308 of the Workforce Innovation and Opportunity Act of 2014 (WIOA), Public Law 113-128 requires the Secretary of Labor (Secretary) to establish and maintain the WIAC.

The statute, as amended, requires the Secretary, acting through the Commissioner of Labor Statistics and the Assistant Secretary for Employment and Training, to formally consult at least twice annually with the WIAC to address: (1) Evaluation and improvement of the nationwide workforce and labor market information system established by the Wagner-Peyser Act, and of the statewide systems that comprise the nationwide system, and (2) how the Department and the States will cooperate in the management of those systems. The Secretary, acting through the Bureau of Labor Statistics (BLS) and the Employment and Training Administration (ETA), and in consultation with the WIAC and appropriate Federal agencies, must also develop a 2-year plan for management of the system, with subsequent updates every two years thereafter. The statute

generally prescribes how the plan is to be developed and implemented, outlines the contents of the plan, and requires the Secretary to submit the plan to designated authorizing committees in the House and Senate.

By law, the Secretary must “seek, review, and evaluate” recommendations from the WIAC, and respond to the recommendations in writing to the WIAC. The WIAC must make written recommendations to the Secretary on the evaluation and improvement of the workforce and labor market information system, including recommendations for the 2-year plan. The 2-year plan, in turn, must describe WIAC recommendations and the extent to which the plan incorporates them.

The WIAC accomplishes its objectives by, for example: (1) Studying workforce and labor market information issues; (2) seeking and sharing information on innovative approaches, new technologies, and data to inform employment, skills training, and workforce and economic development decision making and policy; and (3) advising the Secretary on how the workforce and labor market information system can best support workforce development, planning, and program development.

**II. Structure**

The Wagner-Peyser Act at section 15(d)(2)(B), requires the WIAC to have 14 representative members, appointed by the Secretary, consisting of:

(i) Four members who are representatives of lead State agencies with responsibility for workforce investment activities, or State agencies described in Wagner-Peyser Act Section 4 (agency designated or authorized by Governor to cooperate with the Secretary), who have been nominated by such agencies or by a national Start Printed Page 39021 organization that represents such agencies;

(ii) Four members who are representatives of the State workforce and labor market information directors affiliated with the State agencies responsible for the management and oversight of the workforce and labor market information system as described in Wagner-Peyser Act Section 15(e)(2), who have been nominated by the directors;

(iii) One member who is a representative of providers of training services under WIOA section 122 (Identification of Eligible Providers of Training Services);

(iv) One member who is a representative of economic development entities;

(v) One member who is a representative of businesses, who has been nominated by national business organizations or trade associations;

(vi) One member who is a representative of labor organizations, who has been nominated by a national labor federation;

(vii) One member who is a representative of local workforce development boards, who has been nominated by a national organization representing such boards; and

(viii) One member who is a representative of research entities that use workforce and labor market information.

The Secretary must ensure that the membership of the WIAC is geographically diverse, and that no two members appointed under clauses (i), (ii), and (vii), above, represent the same State. Each member will be appointed for a term of three years and the Secretary will not appoint a member for any more than two consecutive terms. Any member whom the Secretary appoints to fill a vacancy occurring before the expiration of the predecessor’s term will be appointed only for the remainder of that term. Members of the WIAC will serve on a voluntary and generally uncompensated basis, but will be reimbursed for travel expenses to attend WIAC meetings, including per diem in lieu of subsistence, as authorized by the Federal travel regulations. All WIAC members serve at the pleasure of the Secretary. Members may be appointed, reappointed, or replaced, and their terms may be extended, changed, or terminated at the Secretary’s discretion. A member’s excessive absence from WIAC meetings may result in the member’s removal and replacement.

**Authority:** Pursuant to the Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 *et seq.*; Workforce Innovation and Opportunity Act, Public Law 113-128; Federal Advisory Committee Act, as amended, 5 U.S.C. App.

**Suzan G. LeVine,**

*Principal Deputy Assistant Secretary for  
Employment and Training Administration.*

[FR Doc. 2021-14679 Filed 7-9-21; 8:45 am]

**BILLING CODE 4510-FN-P**

**NUCLEAR REGULATORY  
COMMISSION**

[NRC-2021-0001]

**Sunshine Act Meetings**

**TIME AND DATE:** Weeks of July 12, 19, 26, August 2, 9, 16, 2021.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public.

**MATTERS TO BE CONSIDERED:**

#### Week of July 12, 2021

There are no meetings scheduled for the week of July 12, 2021.

#### Week of July 19, 2021—Tentative

There are no meetings scheduled for the week of July 19, 2021.

#### Week of July 26, 2021—Tentative

There are no meetings scheduled for the week of July 26, 2021.

#### Week of August 2, 2021—Tentative

There are no meetings scheduled for the week of August 2, 2021.

#### Week of August 9, 2021—Tentative

There are no meetings scheduled for the week of August 9, 2021.

#### Week of August 16, 2021—Tentative

There are no meetings scheduled for the week of August 16, 2021.

#### CONTACT PERSON FOR MORE INFORMATION:

For more information or to verify the status of meetings, contact Wesley Held at 301-287-3591 or via email at [Wesley.Held@nrc.gov](mailto:Wesley.Held@nrc.gov). The schedule for Commission meetings is subject to change on short notice.

The NRC Commission Meeting Schedule can be found on the internet at: <https://www.nrc.gov/public-involve/public-meetings/schedule.html>.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify Anne Silk, NRC Disability Program Specialist, at 301-287-0745, by videophone at 240-428-3217, or by email at [Anne.Silk@nrc.gov](mailto:Anne.Silk@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555, at 301-415-1969, or by email at [Wendy.Moore@nrc.gov](mailto:Wendy.Moore@nrc.gov) or [Tyesha.Bush@nrc.gov](mailto:Tyesha.Bush@nrc.gov).

The NRC is holding the meetings under the authority of the Government in the Sunshine Act, 5 U.S.C. 552b.

Dated: July 7, 2021.

For the Nuclear Regulatory Commission.

**Wesley W. Held,**

*Policy Coordinator, Office of the Secretary.*

[FR Doc. 2021-14784 Filed 7-8-21; 11:15 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on the Medical Uses of Isotopes: Reschedule of Public Meeting

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Reschedule of public meeting.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has rescheduled the public teleconference meeting of the Advisory Committee on the Medical Uses of Isotopes (ACMUI) previously scheduled for July 15, 2021. The meeting notice, published in the **Federal Register** on June 17, 2021 (86 FR 32285), is being reissued to inform public stakeholders that the ACMUI meeting will now be held on September 2, 2021. The meeting agenda and any updates are available at <https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2021.html> or by emailing Ms. Kellee Jamerson at the contact information below. The agenda is subject to change.

**DATES:** The rescheduled teleconference meeting will now be held on Thursday, September 2, 2021, 1:00 p.m. to 3:00 p.m. Eastern Daylight Time.

Date	Webinar information
September 2, 2021.	Link: <a href="https://usnrc.webex.com">https://usnrc.webex.com</a> . Event number: 199 085 4780.

**Public Participation:** The meeting will also be held as a webinar. Any member of the public who wishes to participate in any portion of this meeting should register in advance of the meeting by accessing the provided link and event number above. Upon successful registration, an email confirmation will be generated providing the telephone bridge line and a link to join the webinar on the day of the meeting. Members of the public should also monitor the NRC's Public Meeting Schedule at <https://www.nrc.gov/pmns/mtg> for any meeting updates. If there are any questions regarding the meeting, please contact Ms. Jamerson using the information below.

#### FOR FURTHER INFORMATION CONTACT:

Kellee Jamerson, email: [Kellee.Jamerson@nrc.gov](mailto:Kellee.Jamerson@nrc.gov), telephone: 301-415-7408.

## Conduct of the Meeting

The ACMUI Chair, Darlene F. Metter, M.D., will preside over the meeting. Dr. Metter will conduct the meeting in a manner that will facilitate the orderly conduct of business. The following procedures apply to public participation in the meeting:

1. Persons who wish to provide a written statement should submit an electronic copy to Ms. Jamerson at the contact information listed above. All written statements must be received by August 30, 2021, three business days prior to the meeting, and must pertain to the topics on the agenda for the meeting.

2. Questions and comments from members of the public will be permitted during the meeting, at the discretion of the ACMUI Chairman.

3. The draft transcript and meeting summary will be available on ACMUI's website <https://www.nrc.gov/reading-rm/doc-collections/acmui/meetings/2021.html> on or about November 1, 2021.

4. Persons who require special services, such as those for the hearing impaired, should notify Ms. Jamerson of their planned participation.

This meeting will be held in accordance with the Atomic Energy Act of 1954, as amended (primarily Section 161a); the Federal Advisory Committee Act (5 U.S.C. App); and the Commission's regulations in 10 CFR part 7.

Dated at Rockville, Maryland this 7th day of July, 2021.

For the U.S. Nuclear Regulatory Commission.

**Russell E. Chazell,**

*Federal Advisory Committee Management Officer.*

[FR Doc. 2021-14709 Filed 7-9-21; 8:45 am]

**BILLING CODE 7590-01-P**

## OFFICE OF PERSONNEL MANAGEMENT

### Submission for Review: Life Insurance Election, Standard Form (SF) 2817

**AGENCY:** Office of Personnel Management.

**ACTION:** 30-Day notice and request for comments.

**SUMMARY:** The Federal Employee Insurance Operations (FEIO), Healthcare & Insurance, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on an expiring information collection request (ICR) with minor edits, SF 2817—Life Insurance Election.



**DATES:** Comments are encouraged and will be accepted until August 11, 2021.

**ADDRESSES:** Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to: [oirq\\_submission@omb.eop.gov](mailto:oirq_submission@omb.eop.gov) or faxed to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316-L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to [Cyrus.Benson@opm.gov](mailto:Cyrus.Benson@opm.gov) or faxed to (202) 606-0910 or via telephone at (202) 606-4808.

**SUPPLEMENTARY INFORMATION:** As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206-0230) was previously published in the **Federal Register** on February 24, 2021 at 86 FR 11340, allowing for a 60-day public comment period. No comments were received.

The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Standard Form 2817 is used by federal employees and assignees (those who have acquired control of an employee/annuitant's coverage through an assignment or "transfer" of the ownership of the life insurance). Only the use of this form by assignees who are not federal employees and are,

rather, members of the public, is subject to the Paperwork Reduction Act.

#### Analysis

*Agency:* Federal Employee Insurance Operations, Healthcare & Insurance, Office of Personnel Management.

*Title:* Life Insurance Election (SF 2817).

*OMB Number:* 3206-0230.

*Frequency:* On occasion.

*Affected Public:* Individuals or Households.

*Number of Respondents:* 150.

*Estimated Time per Respondent:* 15 minutes.

*Total Burden Hours:* 38 hours.

Office of Personnel Management.

**Kellie Cosgrove Riley,**

*Director, Office of Privacy and Information Management.*

[FR Doc. 2021-14684 Filed 7-9-21; 8:45 am]

**BILLING CODE 6325-38-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No.: 34-92332]

#### Public Availability of the Securities and Exchange Commission's FY2018 Service Contract Inventory

**AGENCY:** Securities and Exchange Commission.

**ACTION:** Notice.

In accordance with Section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L. 111-117), SEC is publishing this notice to advise the public of the availability of the FY2018 Service Contract Inventory (SCI) along with the FY2018 SCI Analysis.

The SCI provides information on FY2018 actions above the simplified acquisition threshold for service contracts. The inventory organizes the information by function to show how SEC distributes contracted resources throughout the agency. SEC developed the inventory per the guidance issued on January 17, 2017, by the Office of Management and Budget's Office of Federal Procurement Policy (OFPP). OFPP's guidance is available at [https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/service\\_contract\\_inventories.pdf](https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/memoranda/2017/service_contract_inventories.pdf).

The Service Contract Inventory Analysis for FY2018 provides information based on the FY2018 Inventory. Please note that the SEC's FY2018 Service Contract Inventory data is now included in government-wide inventory available on [www.acquisition.gov](http://www.acquisition.gov). The government-

wide inventory can be filtered to display the inventory data for the SEC. The SEC has posted its FY2019 plans for analyzing data, a link to the FY2018 government-wide Service Contract Inventory, the FY2018 SCI Analysis on the SEC's homepage at <http://www.sec.gov/about/secreports.shtml> and <http://www.sec.gov/open>.

#### FOR FURTHER INFORMATION CONTACT:

Direct questions regarding the service contract inventory to Vance Cathell, Director Office of Acquisitions 202.551.8385 or [CathellV@sec.gov](mailto:CathellV@sec.gov).

Dated: July 7, 2021.

**Vanessa A. Countryman,**

*Secretary.*

[FR Doc. 2021-14734 Filed 7-9-21; 8:45 am]

**BILLING CODE 8011-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-92330; File No. SR-CboeBYX-2021-013]

#### Self-Regulatory Organizations; Cboe BYX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Introduce a New Data Product To Be Known as Short Sale Volume Data

July 6, 2021.

On May 28, 2021, Cboe BYX Exchange, Inc. (the "Exchange") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> a proposed rule change to introduce a new data product to be known as Short Sale Volume data.

The proposed rule change was published for comment in the **Federal Register** on June 16, 2021.<sup>3</sup> On June 30, 2021, the Exchange withdrew the proposed rule change (SR-CboeBYX-2021-013).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

**J. Matthew DeLesDernier,**

*Assistant Secretary.*

[FR Doc. 2021-14694 Filed 7-9-21; 8:45 am]

**BILLING CODE 8011-01-P**

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> See Securities Exchange Act Release No. 92149 (June 10, 2021), 86 FR 32076. Comment on the proposed rule change is located at: <https://www.sec.gov/comments/sr-cboebyx-2021-013/sr-cboebyx2021013.htm>.

<sup>4</sup> 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–92329; File No. SR–CboeEDGX–2021–027]

**Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Introduce a New Data Product To Be Known as Short Sale Volume Data**

July 6, 2021.

On May 28, 2021, Cboe EDGX Exchange, Inc. (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to introduce a new data product to be known as Short Sale Volume data.

The proposed rule change was published for comment in the **Federal Register** on June 16, 2021.<sup>3</sup> On June 30, 2021, the Exchange withdrew the proposed rule change (SR–CboeEDGX–2021–027).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

**J. Matthew DeLesDernier**,  
*Assistant Secretary*.

[FR Doc. 2021–14691 Filed 7–9–21; 8:45 am]

**BILLING CODE 8011–01–P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–92328; File No. SR–CboeEDGA–2021–013]

**Self-Regulatory Organizations; Cboe EDGA Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Introduce a New Data Product To Be Known as Short Sale Volume Data**

July 6, 2021.

On May 28, 2021, Cboe EDGA Exchange, Inc. (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to introduce a new data product to be known as Short Sale Volume data.

The proposed rule change was published for comment in the **Federal**

**Register** on June 16, 2021.<sup>3</sup> On June 30, 2021, the Exchange withdrew the proposed rule change (SR–CboeEDGA–2021–013).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

**J. Matthew DeLesDernier**,  
*Assistant Secretary*.

[FR Doc. 2021–14693 Filed 7–9–21; 8:45 am]

**BILLING CODE 8011–01–P**

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34–92331; File No. SR–CboeBZX–2021–042]

**Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Withdrawal of a Proposed Rule Change To Introduce a New Data Product To Be Known as Short Sale Volume Data**

July 6, 2021.

On May 28, 2021, Cboe BZX Exchange, Inc. (the “Exchange”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)<sup>1</sup> and Rule 19b–4 thereunder,<sup>2</sup> a proposed rule change to introduce a new data product to be known as Short Sale Volume data.

The proposed rule change was published for comment in the **Federal Register** on June 16, 2021.<sup>3</sup> On June 30, 2021, the Exchange withdrew the proposed rule change (SR–CboeBZX–2021–042).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>4</sup>

**J. Matthew DeLesDernier**,  
*Assistant Secretary*.

[FR Doc. 2021–14695 Filed 7–9–21; 8:45 am]

**BILLING CODE 8011–01–P**

**SECURITIES AND EXCHANGE COMMISSION****Sunshine Act Meetings**

**TIME AND DATE:** 2:00 p.m. on Thursday, July 15, 2021.

<sup>3</sup> See Securities Exchange Act Release No. 92151 (June 10, 2021), 86 FR 32099. Comment on the proposed rule change is located at: <https://www.sec.gov/comments/sr-cboeedga-2021-013/srcboeedga2021013.htm>.

<sup>4</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 92148 (June 10, 2021), 86 FR 32088. Comment on the proposed rule change is located at: <https://www.sec.gov/comments/sr-cboebzx-2021-042/srcboebzx2021042.htm>.

<sup>4</sup> 17 CFR 200.30–3(a)(12).

**PLACE:** The meeting will be held via remote means and/or at the Commission’s headquarters, 100 F Street NE, Washington, DC 20549.

**STATUS:** This meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:**

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

In the event that the time, date, or location of this meeting changes, an announcement of the change, along with the new time, date, and/or place of the meeting will be posted on the Commission’s website at <https://www.sec.gov>.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

The subject matter of the closed meeting will consist of the following topics:  
Institution and settlement of injunctive actions;  
Institution and settlement of administrative proceedings;  
Resolution of litigation claims; and  
Other matters relating to examinations and enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting agenda items that may consist of adjudicatory, examination, litigation, or regulatory matters.

**CONTACT PERSON FOR MORE INFORMATION:**

For further information, please contact Vanessa A. Countryman from the Office of the Secretary at (202) 551–5400.

Dated: July 8, 2021.

**Vanessa A. Countryman**,  
*Secretary*.

[FR Doc. 2021–14892 Filed 7–8–21; 4:15 pm]

**BILLING CODE 8011–01–P**

**SURFACE TRANSPORTATION BOARD**

[Docket No. EP 748]

**Indexing the Annual Operating Revenues of Railroads**

The Surface Transportation Board (Board) is publishing the annual deflator factor and inflation-adjusted railroad revenue thresholds for 2020. The deflator factor is used by the railroads

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

<sup>3</sup> See Securities Exchange Act Release No. 92147 (June 10, 2021), 86 FR 32085. Comment on the proposed rule change is located at: <https://www.sec.gov/comments/sr-cboeedgx-2021-027/srcboeedgx2021027.htm>.

<sup>4</sup> 17 CFR 200.30–3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b–4.

to adjust their gross annual operating revenues for classification purposes. This indexing methodology ensures that railroads are classified based on real business expansion and not on the effects of inflation. Classification is

important because it determines the extent to which individual railroads must comply with the Board's reporting requirements.

The Board's annual deflator factor is based on the annual average Railroad

Freight Price Index developed by the Bureau of Labor Statistics and is used to deflate revenues for comparison with established revenue thresholds.

#### RAILROAD REVENUE THRESHOLDS <sup>1</sup>

Year	Factor	Class I	Class II
2016 .....	0.5585	447,621,226	35,809,698
2017 .....	0.5390	463,860,933	37,108,875
2018 .....	0.5103	489,935,956	39,194,876
2019 .....	0.4952	504,803,294	40,384,263
2020 <sup>2</sup> .....	1.0000	900,000,000	40,400,000

**DATES:** The deflator factor is applicable January 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Pedro Ramirez at (202) 245-0333. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339.

Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: July 6, 2021.

By the Board, William Brennan, Ph.D., Chief Economist & Director, Office of Economics.

**Eden Besera,**

*Clearance Clerk.*

[FR Doc. 2021-14680 Filed 7-9-21; 8:45 am]

**BILLING CODE 4915-01-P**

#### DEPARTMENT OF TRANSPORTATION

##### Federal Highway Administration

[Docket No. FHWA-2021-0006]

#### Notice of Intent To Prepare an Environmental Impact Statement for a Proposed Highway Project, Bronx County, NY

**AGENCY:** Federal Highway Administration (FHWA), U.S. Department of Transportation (DOT).

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** FHWA is issuing this Notice of Intent (NOI) to solicit comments and advise the public, agencies, and stakeholders that an Environmental Impact Statement (EIS) will be prepared for the proposed replacement or rehabilitation of the Shore Road Bridge over the Hutchinson River in Bronx County, New York (the Project). This NOI contains a summary of the information required in the Council on Environmental Quality (CEQ) regulations. This NOI should be reviewed together with the NOI Report, which contains important details about the proposed project and supplements the information in this NOI. Persons and agencies who may be interested in or affected by the proposed project are encouraged to comment on the information in this NOI and the NOI Report.

**DATES:** Comments on the NOI or the NOI Report are to be received by FHWA at the address below by August 11, 2021.

**ADDRESSES:** This NOI and the NOI Report are also available in the docket referenced above at <http://www.regulations.gov> and on the project website located at <https://shoreroadbridgebx.com/>. The NOI Report will be mailed upon request.

To submit comments on the NOI or the NOI Report, please submit them by only one of the following means to

ensure you do not duplicate your submissions:

- **Mail:** Federal Highway Administration, New York Division, Attention: Shore Road Bridge Project (PIN X773.63), Leo W. O'Brien Federal Building, 11A Clinton Avenue, Suite 719, Albany, New York 12207.
- **Mail:** New York City Department of Transportation, Division of Bridges, Shore Road Bridge Project Team, Attention: Joannene Kidder, 55 Water Street, 5th Floor, New York, NY 10041.
- **Email:** [ShoreRoadBridgeBX@dot.nyc.gov](mailto:ShoreRoadBridgeBX@dot.nyc.gov).

The comments received during this 30-day comment period will be published in the Draft EIS without change, including any personal information provided.

**FOR FURTHER INFORMATION CONTACT:**

Richard J. Marquis, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 11A Clinton Avenue, Suite 719, Albany, New York 12207, Telephone: (518) 431-4127, Email: [Rick.Marquis@dot.gov](mailto:Rick.Marquis@dot.gov) or Naim Rasheed, Assistant Commissioner, New York City Department of Transportation, Traffic Engineering & Planning, 55 Water Street, 6th floor, New York, NY 10004, Telephone: (212) 839-7710, Email: [ShoreRoadBridgeBX@dot.nyc.gov](mailto:ShoreRoadBridgeBX@dot.nyc.gov).

Interested persons can also use the Shore Road Bridge email address referenced above to request to be added to the project mailing list to receive notices of future project information. **SUPPLEMENTARY INFORMATION:** FHWA, as Federal lead agency, the New York State Department of Transportation (NYSDOT), as joint lead agency, and the New York City Department of Transportation (NYCDOT), as project sponsor and joint lead agency, are preparing an EIS for the Shore Road Bridge over Hutchinson River Project located in the Bronx, New York, in accordance with the requirements of the

<sup>1</sup> In *Montana Rail Link, Inc., & Wisconsin Central Ltd., Joint Petition for Rulemaking with Respect to 49 CFR part 1201*, 8 I.C.C.2d 625 (1992), the Board's predecessor, the Interstate Commerce Commission, raised the revenue classification level for Class I railroads from \$50 million (1978 dollars) to \$250 million (1991 dollars), effective for the reporting year beginning January 1, 1992. The Class II threshold was also raised from \$10 million (1978 dollars) to \$20 million (1991 dollars). On April 5, 2021, the Board issued a Final Rule in *Montana Rail Link, Inc.—Petition for Rulemaking—Classification of Carriers*, Docket No. EP 763, in which the revenue classification level for Class I railroads was raised from \$250 million (1991 dollars) to \$900 million (2019 dollars) effective for the reporting year beginning January 1, 2020. The Class II threshold was converted and rounded from \$20 million (1991 dollars) to \$40.4 million (2019 dollars).

<sup>2</sup> The 2019 values reflect those in *Indexing the Annual Operating Revenues of Railroads*, EP 748 (STB served June 10, 2020). The 2020 values are based on the new thresholds established in Docket No. EP 763 and the deflator factor is referenced to the new base year of 2019. As the Railroad Freight Price Index remained the same from 2019 to 2020, the annual deflator factor for 2020 is 1.0000.

National Environmental Policy Act (NEPA) of 1969, as amended (42 U.S.C. 4321, *et seq.*), 23 U.S.C. 139, CEQ regulations implementing NEPA (40 CFR 1500–1508), FHWA regulations implementing NEPA (23 CFR 771.101–771.139) and applicable Federal, State, and local governmental laws and regulations. The Project is classified as a NEPA Class I action under 23 CFR part 771 and a City Environmental Quality Review (CEQR) Type 1 action under 6 NYCRR 617 and 43 RCNY § 6. To ensure that a full range of issues are addressed in the EIS and potential issues are identified, comments and suggestions are invited from all interested parties. FHWA requests comments and suggestions on potential project alternatives and impacts, and the identification of any relevant information, studies, or analyses of any kind concerning impacts affecting the quality of the human environment. The purpose of this request is to bring relevant comments, information, and analyses to FHWA's attention, as early in the process as possible, to enable the agency to make maximum use of this information in decision making.

An NOI was previously published in the **Federal Register** in 1999 to advise the public that an EIS would be prepared for rehabilitation, reconstruction, or replacement of the Shore Road Bridge over the Hutchinson River in Bronx County, New York. FHWA rescinded the 1999 NOI by a Notice published in the **Federal Register** on May 6, 2021, because a substantial amount of time had passed since the original NOI was published.

The Shore Road Bridge, also known as the Pelham Bridge, is an 865-foot-long bridge with seven spans. The main span over the navigation channel is a double-leaf movable bascule span, which is flanked by three concrete arch spans on either side. The bridge and its associated roadway provide access to major interchanges with the Hutchinson River Parkway and Bruckner Expressway west of the bridge and City Island Road east of the bridge.

### 1. Purpose and Need for the Proposed Action

The purpose of the Project is to address the structural deficiencies, geometric deficiencies, and operational reliability for multi-modal users, including marine vessels, of the Shore Road Bridge over the Hutchinson River. The objectives of the Project are to address the identified structural, geometric and operational deficiencies of the crossing, address operational constraints associated with the passage of marine vessels under the bridge, and

improve bicycle/pedestrian facilities on the Shore Road Bridge. The Project is needed to address structural deficiencies; improve vehicular and marine traffic operations and the operational reliability of the bridge; address geometric deficiencies; and improve pedestrian and bicycle accommodations. The complete current draft project purpose and need statement may be reviewed in the NOI Report available in the docket established for this project and on the project website as noted in the **ADDRESSES** section. Comments on the Purpose and Need for the Proposed Action are welcomed during the NOI comment period.

### 2. Preliminary Description of the Proposed Action and Alternatives

A reasonable range of alternatives for detailed study in the EIS is currently being considered and will be refined in consideration of agency and public comments received during the NOI comment period. In addition to the No Action Alternative, potential project alternatives include bridge replacement and bridge rehabilitation. A preliminary description of these potential alternatives is provided below. Additional information on the proposed alternatives is included in the NOI Report available for review in the docket established for this project and on the project website as noted in the **ADDRESSES** section. Comments on the proposed alternatives to be included in the draft EIS are welcomed during the NOI comment period.

The No Action Alternative assumes no improvements other than those planned by others or implemented as part of routine maintenance. The Bridge Rehabilitation Alternative would require major work to extend the useful life of the existing Shore Road Bridge. The operability of the bridge would need to be maintained while addressing structural deficiencies, geometric deficiencies, and operational reliability of the bridge.

The Bridge Replacement Alternative would replace the existing Shore Road Bridge with a new bridge. Various bridge replacement concepts will be considered during the scoping process, including both on-line and off-line horizontal alignments and several different vertical profile/clearances (heights) over the navigation channel in the closed or fixed positions.

Additional information on the potential alternatives, as well as maps and figures illustrating the project location, are provided in the NOI Report available for review in the docket established for this project and on the

project website as noted in the **ADDRESSES** section.

### 3. Summary of Expected Impacts

The EIS will include an evaluation of the potential social, economic, and environmental effects resulting from the implementation of the Project. Based on preliminary review of existing conditions within and in proximity to the Project location, the implementation of the Project could result in effects to cultural and historic resources; social conditions; parks and recreational areas; threatened and endangered species; tidal wetlands; coastal resources; navigable waters; hazardous waste and contaminated materials; floodplains; traffic noise; air quality; local and regional economies; and visual resources. The analyses and evaluations conducted for the EIS will identify the potential for effects; whether the anticipated effects would be adverse; and mitigation measures for adverse effects. Evaluations under Section 4(f) of the USDOT Act of 1966, 23 CFR part 774, and Section 6(f) of the Land and Water Conservation Fund Act of 1965, 54 U.S.C. 200302, will be prepared, and consultation under Section 106 of the National Historic Preservation Act of 1966, 54 U.S.C. 300101–307108, will be undertaken concurrently with the NEPA/CEQR environmental review processes. Additional information on the expected impacts is provided in the NOI Report available for review in the docket established for this project and on the project website as noted in the **ADDRESSES** section. Comments on the expected impacts to be analyzed in the draft EIS are welcomed during the NOI comment period.

### 4. Anticipated Permits and Other Authorizations

Potential permits and approvals for the Project include: U.S. Army Corps of Engineers (USACE) permits under Section 404 of the Clean Water Act, 33 U.S.C. 1344, and Section 10 of the Rivers and Harbors Act, 33 U.S.C. 403, for construction in the Hutchinson River and potential tidal wetland impacts; U.S. Coast Guard (USCG) Bridge Permit, which establishes allowable clearances for bridges over navigable waterways such as the Hutchinson River; National Marine Fisheries Service (NMFS) Section 7 Endangered Species Act, 16 U.S.C. 1536, consultation for potential impacts on threatened and/or endangered species in the Hutchinson River; U.S. Fish and Wildlife Service (USFWS) Section 7 Endangered Species Act, 16 U.S.C. 1536, consultation for potential impacts to federally-listed threatened species; NMFS Essential Fish

Habitat Consultation for potential impacts to species due to construction in the Hutchinson River; as well as any other relevant New York State and City permits. Field verification meetings with USACE for the wetlands delineation were held on June 12, 2018 and September 10, 2019. USACE issued a jurisdictional determination (JD) on June 15, 2020.

The first Cooperating Agency meeting for the Project was held on March 3, 2021. Cooperating Agencies include USACE, NMFS, United States Environmental Protection Agency (USEPA), Federal Transit Administration (FTA), New York State Department of Environmental Conservation (NYSDEC), and New York State Historic Preservation Office (SHPO) at New York State Office of Parks, Recreation, and Historic Preservation (NYSOPRHP).

The first Participating Agency meeting for the Project was held on March 5, 2021. Participating Agencies include USCG, United States Department of Interior (USDOI)/ National Park Service (NPS), USFWS, Advisory Council on Historic Preservation (ACHP), Metropolitan Transportation Authority (MTA), Village of Pelham Manor, New York City Department of Parks and Recreation (NYCDPR), New York City Department of City Planning (NYCDCP), New York City Landmarks Preservation Commission (LPC), New York City Department of Environmental Protection (NYCDEP), New York City Mayor's Office of Resiliency (NYCMOR), New York City Office of Emergency Management (NYCEM), New York City Mayor's Office of Environmental Coordination, New York City Mayor's Office of Sustainability (NYCMOS), New York City Department of Sanitation (DSNY), Fire Department of the City of New York (FDNY), City of New York Police Department (NYPD), New York City Public Design Commission, New York Office of General Services (OGS), Delaware Tribe, Shinnecock Indian Nation Tribal Office, and Stockbridge-Munsee Community.

Meetings with Cooperating and Participating Agencies will continue to be held throughout the environmental review process. In addition, a meeting with USCG was held on April 21, 2021.

### 5. Schedule for the Decision-Making Process

The Project schedule will be established as part of the requirements of the environmental review process under 23 U.S.C. 139 and will comply with 40 CFR 1501.10(b)(2), which requires that environmental reviews and

authorization decisions for major infrastructure projects occur within two years (from the date of publication of the NOI to the date of issuance of the Record of Decision [ROD]), and all necessary authorizations be issued efficiently and in a timely manner, in cooperation with the FHWA. A current draft of the coordination plan, public involvement plan, and project schedule are included in the NOI Report, which is available for review in the docket established for this project and on the project website as noted in the **ADDRESSES** section.

The anticipated project schedule is outlined below:

- Public Scoping Meetings (August 2021)
- Scoping Report Publication (November 2021)
- Notice of Availability of the Draft EIS (DEIS) (October 2022)
- Public Hearing (October 2022)
- End of DEIS Comment Period (November 2022)
- Publish Single Final EIS (FEIS)/ROD (April 2023)
- Issue all Project Permits and Authorization Decisions (July 2023)

### 6. A Description of the Public Scoping Process

Public and agency outreach will include a formal Public Scoping Meeting scheduled on August 3, 2021. A Public Hearing on the DEIS will also be scheduled. The first Cooperating Agency meeting for the Project was held on March 3, 2021 and the first Participating Agency meeting for the Project was held on March 5, 2021. During these meetings, the agencies were presented with a general overview of the Project, including the project needs, purpose, and objectives and project schedule, a discussion of the anticipated roles and responsibilities of the agencies, a summary of key environmental topics, and planned public outreach activities. Monthly meetings with Cooperating Agencies and periodic meetings with Participating Agencies will continue to be held throughout the environmental review process. Concurrence Point #1, the adoption of the Project Purpose, Objectives, and Need, was distributed to the Cooperating Agencies on March 8, 2021. Attachment A to the Agency Coordination Plan is the Permitting Timetable and it was distributed to the Cooperating Agencies on March 16, 2021 and April 9, 2021. The Permitting Timetable will be posted by FHWA to the Federal Permitting Dashboard within 30 days of the publication of this Notice of Intent. The Agency Coordination Plan and Public

Involvement Plan were distributed to the Cooperating Agencies on April 7, 2021 and will be posted on the project website.

As described in the **ADDRESSES** section, an NOI Report is located in the docket established for this project and on the project website. The NOI Report includes the Draft Statement of Purpose, Needs and Objectives; Agency Coordination Plan; Public Involvement Plan; Schedule/NEPA Process/Project Timeline; and Project Maps/Figures. Public notice will be given of the date, time, and location of the Public Scoping Meeting consistent with the Public Involvement Plan. To assist in determining the scope of issues to be addressed and identifying the potential for significant issues related to the proposed action, the public will have the opportunity to submit written comments at the Public Scoping Meeting and during the 30-day scoping comment period beginning on the date of this NOI publication. A DEIS will be available for public and agency review and comment prior to the DEIS Public Hearing.

### 7. Request for Identification of Potential Alternatives, Information, and Analyses Relevant to the Proposed Action

With this Notice, FHWA, NYSDOT, and NYCDOT request and encourage State, Tribal, and local government agencies, and the public, to review the NOI and NOI Report, and submit comments on any aspect of the Project. Specifically, agencies and the public are asked to identify and submit potential alternatives for consideration and information such as anticipated significant issues or environmental impacts and analyses relevant to the proposed action for consideration by the Lead and Cooperating Agencies in developing the DEIS. Comments must be received by August 11, 2021. Comments or questions concerning this proposed action, including comments relative to potential alternatives, information and analyses, should be directed to the FHWA and NYCDOT at the addresses provided in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

**Authority:** 42 U.S.C. 4321 *et seq.*; 23 U.S.C. 139; 23 CFR part 771.

Issued on: June 30, 2021.

**Richard J. Marquis,**

*Division Administrator, Albany, NY.*

[FR Doc. 2021-14549 Filed 7-9-21; 8:45 am]

**BILLING CODE 4910-22-P**

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration**

[Docket No. NHTSA–2020–0114; Notice 1]

**Volkswagen Group of America, Inc.,  
Receipt of Petition for Decision of  
Inconsequential Noncompliance****AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).**ACTION:** Receipt of petition.

**SUMMARY:** Volkswagen Group of America, Inc. (Volkswagen), has determined that certain model year (MY) 2020–2021 Volkswagen motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 138, *Tire Pressure Monitoring Systems*. Volkswagen filed a noncompliance report dated October 23, 2020, and later amended it on November 11, 2020. Volkswagen also petitioned NHTSA on November 16, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of Volkswagen's petition.

**DATES:** Send comments on or before August 11, 2021.**ADDRESSES:** Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- *Hand Delivery:* Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.

- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary

attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov/> by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477–78).

**FOR FURTHER INFORMATION CONTACT:** Kerrin Bressant, Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–1110.**SUPPLEMENTARY INFORMATION:**

*I. Overview:* Volkswagen has determined that certain MY 2020–2021 Volkswagen motor vehicles do not fully comply with the requirements of Paragraph S4.5(a) of FMVSS No. 138, *Tire Pressure Monitoring Systems* (49 CFR 571.138). Volkswagen filed a noncompliance report dated October 23, 2020, and later amended it on November 11, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Volkswagen subsequently petitioned NHTSA on November 16, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of Volkswagen's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

*II. Vehicles Involved:* Approximately 115,855 of the following MY 2020–2021 motor vehicles, manufactured between December 16, 2019, and August 28, 2020, are potentially involved:

- MY 2020 Volkswagen Arteon;
- MY 2020 Volkswagen Passat;
- MY 2021 Volkswagen Atlas;
- MY 2020 Volkswagen Atlas Cross Sport;

- MY 2020 Volkswagen Tiguan;
- MY 2020 Volkswagen Jetta;
- MY 2020 Volkswagen Jetta GLI.

*III. Noncompliance:* Volkswagen explains that the noncompliance is due to an error in the owner's manual editing process and that the subject motor vehicles may have received an owner's manual that did not have the exact statement in English as required by paragraph S4.5(a) of FMVSS No. 138. Specifically, the written instructions to vehicle operators about the functionality of the tire pressure monitoring system was not included in the exact wording per paragraph S4.5(a).

*IV. Rule Requirements:* Paragraph S4.5(a) of FMVSS No. 138 includes the requirements relevant to this petition. Beginning on September 1, 2006, the owner's manual in each vehicle certified as complying with paragraph S4 of FMVSS No. 138 must provide an image of the Low Tire Pressure Telltale symbol (and an image of the TPMS Malfunction Telltale warning (TPMS), if a dedicated telltale is utilized for this function) with the following statement in English:

Each tire, including the spare (if provided), should be checked monthly when cold and inflated to the inflation pressure recommended by the vehicle manufacturer on the vehicle placard or tire inflation pressure label. (If your vehicle has tires of a different size than the size indicated on the vehicle placard or tire inflation pressure label, you should determine the proper tire inflation pressure for those tires.)

As an added safety feature, your vehicle has been equipped with a tire pressure monitoring system (TPMS) that illuminates a low tire pressure telltale when one or more of your tires is significantly under-inflated.

Accordingly, when the low tire pressure telltale illuminates, you should stop and check your tires as soon as possible, and inflate them to the proper pressure. Driving on a significantly under-inflated tire causes the tire to overheat and can lead to tire failure. Under-inflation also reduces fuel efficiency and tire tread

life, and may affect the vehicle's handling and stopping ability.

Please note that the TPMS is not a substitute for proper tire maintenance, and it is the driver's responsibility to maintain correct tire pressure, even if under-inflation has not reached the level to trigger illumination of the TPMS low tire pressure telltale.

[The following paragraph is required for all vehicles certified to the standard starting on September 1, 2007, and for vehicles voluntarily equipped with a compliant TPMS MIL before that time.] Your vehicle has also been equipped with a TPMS malfunction indicator to indicate when the system is not operating properly. [For vehicles with a dedicated MIL telltale, add the following statement: The TPMS malfunction indicator is provided by a separate telltale, which displays the symbol "TPMS" when illuminated.] [For vehicles with a combined low tire pressure/MIL telltale, add the following statement: The TPMS malfunction indicator is combined with the low tire pressure telltale. When the system detects a malfunction, the telltale will flash for approximately one minute and then remain continuously illuminated. This sequence will continue upon subsequent vehicle start-ups as long as the malfunction exists.] When the malfunction indicator is illuminated, the system may not be able to detect or signal low tire pressure as intended. TPMS malfunctions may occur for a variety of reasons, including the installation of replacement or alternate tires or wheels on the vehicle that prevent the TPMS from functioning properly. Always check the TPMS malfunction telltale after replacing one or more tires or wheels on your vehicle to ensure that the replacement or alternate tires and wheels allow the TPMS to continue to function properly.

*V. Summary of Volkswagen's Petition:* The following views and arguments presented in this section, "V. Summary of Volkswagen's Petition," are the views and arguments provided by Volkswagen. They have not been evaluated by the Agency and do not reflect the views of the Agency. Volkswagen describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, Volkswagen submitted the following reasoning:

1. Volkswagen states that the affected manuals all have sections devoted to describing appropriate tire pressures and the functionality of the tire pressure monitoring system and that the affected manuals contain equivalent instructions to those set forth in S4.5(a), just in different words. Volkswagen compared the required language and the actual language and believes that the comparable text present in the owner's manuals is consistent with the rationale and intent of the FMVSS No. 138 requirements, even though the exact words required by the standard are not used.

2. Volkswagen asserts that NHTSA has granted similar petitions in the past in which required owner's manual text was not present in verbatim form, but an equivalent version of the text was present. *See* 65 FR 14009 (label and owner's manual missing FMVSS No. 303 required text but include substantive equivalent) and 80 FR 68602 (owner's manual missing description required by FMVSS No. 226).

3. Volkswagen states that as of the last dates of production for the subject vehicles, the condition has been corrected and that any affected vehicles held at the factory have been corrected, and unsold units in dealer inventory will be corrected prior to sale.

4. Additionally, Volkswagen says it is not aware of any field or customer complaints related to this condition, nor has it been made aware of any accidents or injuries that have occurred as a result of this issue.

Volkswagen concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Volkswagen no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motor vehicles under their control after Volkswagen notified them that the subject noncompliance existed.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

**Otto G. Matheke III,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. 2021-14743 Filed 7-9-21; 8:45 am]

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Part II

## Pension Benefit Guaranty Corporation

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29 CFR Parts 4000 and 4262

Special Financial Assistance by PBGC; Interim Final Rule



## PENSION BENEFIT GUARANTY CORPORATION

### 29 CFR Parts 4000 and 4262

RIN 1212-AB53

### Special Financial Assistance by PBGC

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Interim final rule; request for comments.

**SUMMARY:** This document contains an interim final rule that sets forth the requirements for special financial assistance applications and related restrictions and conditions pursuant to the American Rescue Plan Act of 2021.

**DATES:**

*Effective date:* This interim final rule is effective on July 12, 2021.

*Comment date:* Comments must be received on or before August 11, 2021 to be assured of consideration.

**ADDRESSES:** Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- *Email:* [reg.comments@pbgc.gov](mailto:reg.comments@pbgc.gov).
- *Mail or Hand Delivery:* Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026.

Commenters are strongly encouraged to submit public comments electronically. PBGC expects to have limited personnel available to process public comments that are submitted on paper through mail. Until further notice, any comments submitted on paper will be considered to the extent practicable.

All submissions must include the agency's name (Pension Benefit Guaranty Corporation, or PBGC) and title for this rulemaking (Special Financial Assistance by PBGC) and the Regulation Identifier Number for this rulemaking (RIN 1212-AB53). Comments received will be posted without change to PBGC's website, [www.pbgc.gov](http://www.pbgc.gov), including any personal information provided. Do not submit comments that include any personally identifiable information or confidential business information.

Copies of comments may also be obtained by writing to Disclosure Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026 or calling 202-229-4040 during normal business hours. TTY users may call the Federal relay service toll-free at 800-877-8339 and ask to be connected to 202-229-4040.

**FOR FURTHER INFORMATION CONTACT:**

Daniel S. Liebman ([liebman.daniel@pbgc.gov](mailto:liebman.daniel@pbgc.gov); 202-229-6510) Deputy General Counsel, Program Law and Policy Department, Hilary Duke ([duke.hilary@pbgc.gov](mailto:duke.hilary@pbgc.gov); 202-229-3839), Assistant General Counsel for Regulatory Affairs, or Stephanie Cibinic ([cibinic.stephanie@pbgc.gov](mailto:cibinic.stephanie@pbgc.gov); 202-229-6352), Deputy Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005-4026. TTY users may call the Federal Relay service toll-free at 800-877-8339 and ask to be connected to 202-229-6510, 202-229-3839, or 202-229-6352.

**SUPPLEMENTARY INFORMATION:**

**Executive Summary**

*Purpose and Authority*

This interim final rule adds to the regulations of the Pension Benefit Guaranty Corporation (PBGC) a new part 4262 to implement the requirements under section 9704 of the American Rescue Plan Act of 2021, "Special Financial Assistance Program for Financially Troubled Multiemployer Plans." This program enhances retirement security for millions of Americans by providing eligible multiemployer defined benefit pension plans with special financial assistance (SFA) in the amounts required for the plans to pay all benefits due during the period beginning on the date of payment of SFA through the plan year ending in 2051.

PBGC's legal authority for this rulemaking comes from new section 4262 of the Employee Retirement Income Security Act of 1974 (ERISA) (Special Financial Assistance by the Corporation), which requires PBGC to issue regulations or guidance setting forth requirements for SFA applications by July 9, 2021, permits PBGC to provide for how SFA and earnings thereon are to be invested, and, in consultation with the Secretary of the Treasury, permits PBGC to impose reasonable conditions by regulation or other guidance on an eligible multiemployer plan that receives SFA. PBGC's legal authority also comes from section 4002(b)(3) of ERISA, which authorizes PBGC to issue regulations to carry out the purposes of title IV of ERISA, and from section 4003(a) of ERISA, which authorizes PBGC to conduct investigations and audits.

*Major Provisions of the Regulatory Action*

This rulemaking sets forth what information a plan is required to file to

demonstrate eligibility for SFA and the amount of SFA to be paid by PBGC to the plan. It identifies which plans will be given priority to file applications before March 11, 2023, and provides for a processing system, which will accommodate the filing and review of many applications in a limited amount of time. It also establishes permissible investments for SFA funds and restrictions and conditions on plans that receive SFA.

**Background**

*PBGC and the Multiemployer Insurance Program*

PBGC administers two insurance programs for private-sector defined benefit pension plans under title IV of ERISA: One for single-employer defined benefit pension plans and one for multiemployer defined benefit pensions plans (multiemployer plans). In general, a multiemployer plan is a collectively bargained plan involving two or more unrelated employers. The multiemployer insurance program protects the benefits of approximately 10.9 million workers and retirees in approximately 1,400 plans. This interim final rule deals with multiemployer plans.

The multiemployer insurance program provides PBGC with tools to help plans that are insolvent or approaching insolvency to be able to pay guaranteed benefits.<sup>1</sup> This help is primarily in the form of financial assistance loans under section 4261(a) of ERISA. Under that provision, when a multiemployer plan becomes insolvent, PBGC provides periodic financial assistance payments to the insolvent plan in amounts that, together with existing plan assets and any other plan income, are sufficient to pay guaranteed benefit amounts to participants and beneficiaries. In general terms, a plan is insolvent if it cannot pay benefits when due.

The Multiemployer Pension Reform Act of 2014 (MPRA) created pathways under ERISA to help improve solvency for plans that are likely to become insolvent. Plans that are in critical and declining status<sup>2</sup> may apply to the U.S.

<sup>1</sup> Multiemployer plan guaranteed benefits are primarily nonforfeitable benefits and the maximum guarantee is set by law under section 4022A of ERISA.

<sup>2</sup> A plan is in critical and declining status if the plan satisfies the criteria for critical status under section 305(b)(2) of ERISA and is projected to become insolvent within the meaning of section 4245 during the current plan year or any of the 14 succeeding plan years (or 19 succeeding plan years if the plan has a ratio of inactive participants to active participants that exceeds 2 to 1 or if the funded percentage of the plan is less than 80 percent).

Department of the Treasury (Treasury Department) for a suspension of benefits under section 305(e)(9) of ERISA to avoid insolvency. Generally, under this process, these plans may propose a reduction of benefits to no less than 110 percent of PBGC's guaranteed benefit amount if a plan is projected to become insolvent before paying all promised benefits when due. A plan may also request partition assistance from PBGC (under section 4233 of ERISA), which allows the plan to transfer responsibility for paying monthly guaranteed benefits for a portion of the plan's participants and beneficiaries to a newly created successor plan that receives financial assistance from PBGC. When a partition is approved, the original plan has an ongoing obligation to pay and preserve benefits for all participants at levels above PBGC's guaranteed amounts.

MPRA also allows critical and declining plans that are likely to become insolvent to request financial assistance from PBGC upon merging with another multiemployer plan ("facilitated mergers" under section 4231(e) of ERISA). Financial assistance to the merged plan may promote mergers with more viable plans and eliminate the need for benefit reductions.

In recent years, Congress considered a range of proposals to address the funding crisis in the multiemployer pension system, including proposals to expand PBGC's partition authority, loan programs, and broader reforms to stabilize multiemployer plans and extend the solvency of PBGC's multiemployer insurance program. In 2018, Congress created the Joint Select Committee on Solvency of Multiemployer Pension Plans to develop recommendations to address the problems in the multiemployer pension system. While the Committee did not issue recommendations before its term expired, it succeeded in creating a broader understanding of the issues and identifying potential reforms. While not a permanent solution, Congress enacted, and the President signed into law on March 11, 2021, the American Rescue Plan (ARP) Act of 2021 (Pub. L. 117-2), to address the immediate crisis facing severely underfunded multiemployer plans and the solvency of PBGC, and to assist plans by providing funds to reinstate suspended benefits.

*American Rescue Plan Act of 2021—  
Special Financial Assistance Program  
for Financially Troubled Multiemployer  
Plans*

ARP creates a program to enhance retirement security for millions of Americans by providing SFA to

financially troubled multiemployer plans. The SFA program is expected to assist plans covering more than 3 million participants and beneficiaries, including the provision of funds to reinstate suspended monthly benefits going forward, and for make-up payments to restore previously suspended benefits of participants and beneficiaries. In turn, the SFA program improves the financial condition of PBGC's multiemployer insurance program. It is expected that over 100 plans that would have otherwise become insolvent during the next 15 years will instead forestall insolvency as a direct result of receiving SFA.

Section 9704 of ARP amends section 4005 of ERISA to establish an eighth fund for SFA from which PBGC will provide SFA to multiemployer plans under the program created by the addition of section 4262 of ERISA. The eighth fund will be credited with amounts from time to time as the Secretary of the Treasury, in conjunction with the Director of PBGC, determines appropriate, from the general fund of the Treasury Department. Transfers from the general fund to the eighth fund cannot occur after September 30, 2030.

New section 4262 of ERISA sets forth the requirements for SFA, including specifying which plans are eligible to apply, the cutoff date for applications, actuarial assumptions, determinations on applications, restrictions on the use of SFA, and that certain plans with suspended benefits<sup>3</sup> must reinstate those benefits and provide make-up payments to restore previously suspended benefits. Unlike the financial assistance provided under section 4261 of ERISA, which is in the form of a loan and provided in periodic payments, a plan receiving SFA under section 4262 has no obligation to repay SFA, and PBGC must pay SFA in the form of a single, lump sum payment.

Section 4262 of ERISA requires PBGC to prescribe in regulations or other guidance the requirements for SFA applications, including an alternate application for plans with an approved partition under section 4233 of ERISA. PBGC also may prioritize applications during the first 2 years after March 11, 2021, prescribe how SFA funds are to be invested, and impose conditions on plans that receive SFA.

Although PBGC's rulemakings generally involve coordination and consultation with the other two agencies that have jurisdiction over pension plans (the Treasury Department and the

U.S. Department of Labor (Department of Labor or Department)), section 4262 of ERISA specifically provides for consultation with the Treasury Department particularly on SFA applications involving a plan's reinstatement of suspended benefits.<sup>4</sup> The statute also provides for consultation with the Treasury Department with respect to a plan that proposes in its application to change assumptions, with respect to a plan that files an application under PBGC regulations or guidance prioritizing certain applications, and on the conditions imposed on plans that receive SFA.<sup>5</sup> This interim final rule is a result of that coordination and consultation, which will continue as the SFA program gets underway at PBGC and plans begin to apply.

**Listening Sessions and Request for Comment**

After ARP was enacted, interested parties requested to share their views with PBGC, and PBGC held listening sessions at their request. Representatives of PBGC's Board of Directors (the Secretaries of the Department of Labor, the Treasury Department, and the Department of Commerce) also participated in these listening sessions. Most of the requesters provided letters or agendas outlining their concerns. In addition, other interested parties sent PBGC letters communicating their views. PBGC considered the views and concerns expressed, which helped to inform this interim final rule.

PBGC has included a request for public comment in this rulemaking and encourages all interested parties to submit their comments, suggestions, and views concerning the rule's provisions. PBGC is particularly interested in feedback on where any additional guidance may be needed.

**Overview and Section-by-Section Discussion of Regulation**

*Overview and Purpose*

To implement section 4262 of ERISA, PBGC is adding a new part 4262 to its regulations, "Special Financial Assistance by PBGC." The purpose of this new part is to prescribe rules governing applications for SFA and related requirements. Part 4262 provides guidance to multiemployer pension plan sponsors on eligibility, determining the amount of SFA, content of an application for SFA, the process of applying, PBGC's review of

<sup>3</sup> Plans with suspended benefits pursuant to sections 305(e)(9) and 4245(a) of ERISA.

<sup>4</sup> See sections 4262(k) and 4262(n) of ERISA.

<sup>5</sup> See sections 4262(m) and 4262(n) of ERISA.

applications, and restrictions and conditions.

#### *Eligible Multiemployer Plans*

There are four types of multiemployer plans identified in section 4262(b)(1) of ERISA that are eligible to apply for SFA under § 4262.3 of PBGC's regulation. This exclusive list consists of:

(1) A plan in critical and declining status (within the meaning of section 305(b)(6) of ERISA) in any plan year beginning in 2020, 2021, or 2022.

(2) A plan with a suspension of benefits approved under section 305(e)(9) of ERISA as of the date ARP became law (March 11, 2021).

(3) A plan certified to be in critical status (within the meaning of section 305(b)(2) of ERISA) that has a modified funded percentage of less than 40 percent and a ratio of active to inactive participants which is less than 2 to 3, in any plan year beginning in 2020, 2021, or 2022.

(4) A plan that became insolvent for purposes of section 418E of the Internal Revenue Code (the Code) after December 16, 2014 (the date MPRA became law), has remained insolvent, and has not terminated under section 4041A of ERISA as of March 11, 2021.

PBGC notes that a plan that terminated by mass withdrawal in a plan year that ended before January 1, 2020, is not eligible for SFA under section 4262(b)(1)(A) of ERISA and § 4262.3(a)(1) (plans that are in critical and declining status (within the meaning of section 305(b)(6) of ERISA) in any plan year beginning in 2020, 2021, or 2022). This is because the additional funding rules for plans in endangered, critical, and critical and declining status under section 432 of the Code do not apply to such a plan in a plan year that begins in 2020, 2021, or 2022.<sup>6</sup> Accordingly, a plan that

<sup>6</sup> Section 412(a)(1) of the Internal Revenue Code (the Code) requires a pension plan to satisfy the minimum funding standard applicable to the plan for each plan year. In the case of a multiemployer defined benefit plan, section 412(a)(2)(C) provides that participating employers must make contributions under the plan for a plan year that, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 431 as of the end of the plan year. Section 412(e)(4) provides that the minimum funding rules under section 412 apply until the last day of the plan year in which a plan terminates within the meaning of section 4041A(a)(2) of ERISA (that is, termination by mass withdrawal or a cessation of the obligation of all employers to contribute under the plan). Accordingly, the rules of section 431 of the Code do not apply to such a plan for periods after the plan year of termination.

The Internal Revenue Service (IRS) has informed PBGC that section 432 of the Code, which provides additional funding rules for multiemployer plans in endangered status or critical status, likewise does

terminated by mass withdrawal before the plan year selected to determine eligibility under § 4262.3(a)(1) is not in critical and declining status for that year and therefore is not eligible for SFA. For example, if a plan in critical and declining status terminated by mass withdrawal in 2019, the plan would not be eligible for SFA under § 4262.3(a)(1) because it was not in critical and declining status in 2020, 2021, or 2022. However, if a plan in critical and declining status terminated by mass withdrawal in 2020, the plan would be eligible for SFA.

With respect to critical status plans, PBGC provides some clarifications on eligibility. Section 4262.3(c)(1) clarifies that a plan that has elected to be in critical status under section 305(b)(4) of ERISA but is not certified to be in critical status under section 305(b)(2) is not an eligible multiemployer plan. To ensure uniformity for applications and clarify what data to use to satisfy eligibility requirements for critical status plans under section 4262(b)(1)(C), § 4262.3(a)(3) and (c)(2) specify the data that is used for this purpose, including specifying line items entered on the Form 5500 Schedule MB to determine the "modified funded percentage," and line items entered on the Form 5500 to determine the ratio of active to inactive participants.

Under the regulation, the conditions for eligibility do not need to be satisfied for the same plan year. PBGC adds this flexibility in recognition that the filing dates for the certification of plan status and the Form 5500 are not the same. Generally, the due date for filing the certification of plan status is well over a year before the due date for filing the Form 5500 for the same plan year. In addition, data used for the certification of plan status for a plan year may be from a different year than the data used for the Form 5500 for the same plan year, and section 4262 of ERISA is unclear as to the date within a plan year as of which data used to satisfy the conditions is determined.

Section 4262(b)(2) of ERISA defines "modified funded percentage" to mean the percentage equal to a fraction the numerator of which is the current value of plan assets (as defined in section

not apply to a multiemployer plan for periods after the plan year of termination within the meaning of section 4041A(a)(2) of ERISA. This is consistent with section 301(c) of ERISA (over which the IRS has interpretive jurisdiction pursuant to section 101 of Reorganization Plan No. 4 of 1978 (43 FR 47713)), which provides that part 3 of title I of ERISA, including the minimum funding rules parallel to sections 412, 431, and 432 of the Code, applies until the last day of the plan year in which the plan terminates within the meaning of section 4041A(a)(2) of ERISA.

3(26) of ERISA) and the denominator of which is current liabilities (as defined in section 431(c)(6)(D) of the Code).

The numerator for the plan's funded percentage under § 4262.3(c)(2) is calculated using the current value of assets on line 2a of Schedule MB,<sup>7</sup> which is also required to be reported on line 1l, column (a) of the Schedule H,<sup>8</sup> and adding to it the current value of withdrawal liability payments due to be received by the plan on an accrual basis reflecting a reasonable allowance for amounts considered uncollectible<sup>9</sup> (if not already included in the current value of net assets reported on line 2a). The value calculated for the numerator is consistent with the meaning of current value of assets under section 3(26) of ERISA.<sup>10</sup> The current value of assets includes total cash contributions due to be received on an accrual basis.

The denominator for the plan's funded percentage under § 4262.3(c)(2) is calculated using the current liability measurement from line 2b(4) column (2). This entry requires current liability to be calculated using the assumptions, including interest rate, in the instructions for line 1d(2)(a) of the Schedule MB. Those instructions provide how to calculate current liability under section 431(c)(6)(D) of the Code and provide specifically that the interest rate used to compute current liability must be in accordance with guidelines issued by the Treasury Department and the Internal Revenue Service (IRS) and within the interest rate rules referred to under section 431(c)(6)(D), which are outlined under section 431(c)(6)(E). PBGC notes that the current liability is a measure derived using an interest rate chosen by the actuary within a "permissible range" under section 431(c)(6)(E). Since the selection of the interest rate by the actuary is part of the determination of current liability, for purposes of measuring the modified funded

<sup>7</sup> All line references in this section are to the 2020 Form 5500 and schedules.

<sup>8</sup> The 2020 Form 5500 instructions provide that, with certain exceptions, assets reported on line 2a of Schedule MB should be the same as reported on line 1l, (column a) of the Schedule H.

<sup>9</sup> PBGC notes that Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) 960, Plan Accounting—Defined Benefit Pension Plans 960-310-25-3A states: "A multiemployer plan may also have a receivable for a withdrawing employer's share of the plan's unfunded liability. The plan should record the receivable, net of any allowance for an amount deemed uncollectible, when entitlement has been determined."

<sup>10</sup> The withdrawal liability payments due to be received by the plan are not included in the actuarial value of assets or the market value of assets for purposes of sections 431 and 432 of the Code and the corresponding sections 304 and 305 of ERISA.

percentage PBGC has chosen to accept the interest rate selected by the actuary and not to require the use of an alternate interest rate.

As explained earlier in this section of the preamble, section 4262(b)(1)(C) of ERISA requires as one of the conditions of eligibility, for critical status plans to have a ratio of active to inactive participants that is less than 2 to 3. The statute does not specify what participant count to use. To fill in this gap, the regulation refers to end-of-year participant counts on the Form 5500. On the 2020 Form 5500, these are the number of participants identified on line 6a(2) (for total number of active participants) and the sum of lines 6b, 6c, and 6e (for inactive participants: Retired or separated participants receiving benefits, other retired or separated participants entitled to future benefits, and deceased participants whose beneficiaries are receiving or are entitled to receive benefits). Requiring the use of these counts provides for uniformity among applications in the use of participant counts to determine the ratio.

#### *Assumptions for Determining Eligibility*

A plan's eligibility for SFA is determined by PBGC in accordance with § 4262.3(d) of the regulation, which incorporates the actuarial assumptions for determining eligibility found in sections 4262(e)(1) and (e)(4) of ERISA. When a plan sponsor applies for SFA claiming the plan's eligibility based on a certification of either critical status or critical and declining status completed before January 1, 2021, PBGC is required to accept the assumptions incorporated into that certification unless the assumptions are clearly erroneous.

When a plan sponsor applies for SFA and claims the plan is eligible based on a certification of plan status for a plan year that was not completed before January 1, 2021, the sponsor must determine whether the plan is in critical status or critical and declining status using the assumptions that were used in the plan's most recently completed certification before January 1, 2021, unless those assumptions (excluding the plan's interest rate) are unreasonable. A plan sponsor that determines that one or more of the assumptions used in the plan's most recently completed certification before January 1, 2021, is unreasonable may propose changes to the assumptions in the plan's application (except to the interest rate) by disclosing the changes, describing why such assumptions are no longer reasonable, and demonstrating that the changed assumptions are reasonable.

The information required to be included as part of an application, including to support changes to assumptions, is described in §§ 4262.6 through 4262.8 of the regulation. PBGC's review of the assumptions used by a plan are described in § 4262.5 of the regulation.

#### *Amount of Special Financial Assistance*

Under section 4262(a)(1) of ERISA, PBGC is to provide SFA to an eligible multiemployer plan upon application. Under section 4262(j)(1), the amount of SFA to be provided is the "amount required for the plan to pay all benefits due during the period beginning on the date of payment of the special financial assistance payment . . . and ending on the last day of the plan year ending in 2051 . . . ." This is referred to in section 4262(i)(1) as "the amount necessary as demonstrated by the plan sponsor." PBGC believes that the plain meaning of the statutory language is that SFA is the amount by which a plan's resources fall short of its obligations, taking all plan resources and obligations into account.

The heart of the matter is found in the requirement that SFA be "*the amount necessary*" or "*required*" for the plan to pay all benefits due." To the extent that a plan has other means available to pay benefits, it does not *require* or *need* SFA for that purpose.<sup>11</sup> Thus, all of a plan's resources must be considered in determining the amount of SFA for the plan. Moreover, since the determination must be made by looking through the end of the last plan year ending in 2051, the resources to be considered must include plan assets and income (contributions, investment returns, etc.). If Congress had contemplated the exclusion of these resources in the calculation of the amount of SFA "*required* for the plan," it would have done so explicitly.

Additionally, all of a plan's benefits must be considered, as the statute says clearly "all benefits." And, because plan expenses must be paid to keep the plan in operation and capable of paying benefits, all expenses must likewise be taken into account. In short, the statutory language, by *requiring* the payment of *all* benefits due, mandates

<sup>11</sup> Furthermore, it would not be a reasonable result if the amount of SFA were to be calculated under a formula that disregards the plan's available resources, which could lead to a windfall for a plan that needs only a small amount of SFA to pay benefits. PBGC estimates that under such an approach, the total amount of SFA distributed under the program would increase by 2 to 4 times the estimated \$94 billion amount projected under PBGC's ME-PIMS model. See section (4), Estimated Impact of Regulatory Action, of the Regulatory Impact Analysis section.

by clear implication the consideration of all plan obligations and resources in determining the amount of SFA that is needed or is "necessary."

Some interested parties commented to PBGC on section 4262(j)(1) of ERISA that, in determining the amount of SFA, PBGC should exclude from consideration all or a portion of one or more plan obligations or resources, such as existing assets, expected benefit payments, earnings on assets, contributions, withdrawal liability, and administrative expenses. The items to be disregarded, and the theories on which they are to be ignored, differ from one commenter to another.

The common thread among these comments is that they advance a particular policy goal or desired outcome and an approach designed to fit that desired policy goal or outcome. Such desired goals include providing generous assistance, long-term sustainability, avoiding a recurrence of the current crisis, protection of retirees, and simplicity. The approaches advanced to achieve such goals vary among commenters, but include disregarding resources such as current assets, or the portion thereof needed to fund post-2051 payments; future contributions; and other sources of revenue. In considering these comments, PBGC has concluded that the approaches recommended in these comments could be supported only by a strained reading of the clear language of section 4262(j)(1), which defines the SFA amount as the "amount required for the plan to pay all benefits due during the period beginning on the date of payment of the special financial assistance payment under this section and ending on the last day of the plan year ending in 2051 . . . ."

The inability to project resources and obligations with absolute precision for 30 years prompted another objection to the plain meaning of the language in question from some interested parties. The benefits projected to be paid into the future will rarely turn out to be the same as the benefits that actually will be paid (which can only be determined in hindsight). These interested parties argued that the amount of SFA is insufficient unless it enables a plan to pay "all benefits" actually due through the last plan year in 2051, for example by assuming zero mortality for that period. However, this approach would be a radical departure from accepted actuarial practice and would be at odds with the pattern of actuarial determinations that underlies section 4262 of ERISA. PBGC thus considers this suggestion to be contradictory to the statute.

### Calculating the Amount of SFA

Section 4262.4(a) provides that the amount of SFA for a plan is the amount (if any), subject to adjustment for the date of payment as described in § 4262.12, by which the value of all plan obligations exceeds the value of all plan resources, determined as of the plan's SFA measurement date and limited to the SFA coverage period (the period ending on the last day of the last plan year ending in 2051). The SFA measurement date is the last day of the calendar quarter immediately preceding the date the plan's application was filed.

The value of plan obligations under § 4262.4(b) is the sum of the present value of specified benefit payments and administrative expenses. The value of benefit payments is calculated as the present value of benefit payments expected to be paid during the SFA coverage period including any reinstatement of benefits attributable to the elimination of reductions in a participant's or beneficiary's benefit due to a suspension of benefits under sections 305(e)(9) or 4245(a) of ERISA as required under § 4262.15 or restoration of benefits under 26 CFR 1.432(e)(9)–1(e)(3). The reinstatement of benefits must be calculated assuming such reinstatements are paid beginning as of the SFA measurement date instead of the date SFA is paid. The value of administrative expenses is calculated as the present value of administrative expenses expected to be paid during the SFA coverage period (excluding the amount owed to PBGC under section 4261).

The value of plan resources under § 4262.4(c) is the total of the fair market value of assets on the SFA measurement date and the present value of future contributions, withdrawal liability payments, and other payments expected to be made to the plan (excluding the amount of financial assistance under section 4261 of ERISA and the amount of SFA to be received by the plan) during the SFA coverage period.

The amount of financial assistance owed to PBGC under section 4261 of ERISA, if any, is excluded in the calculation of SFA in the plan's application. Instead, it is added to the amount of SFA to be paid to the plan under § 4262.12 as of the date PBGC sends payment of SFA, offset by the value of financial assistance payments under section 4261 received by the plan following the SFA measurement date, accumulated with interest.

The projections in § 4262.4(b)(1) and (2) and (c)(2) must be performed on a deterministic basis using a single set of assumptions as provided in § 4262.4(d).

The deterministic projections must be based on recent participant census data. Participant census data must be as of the first day of the plan year in which the plan's initial application is filed, or, if the date on which the plan's initial application is filed is less than 270 days after the beginning of the current plan year and the actuarial valuation for the current plan year is not complete, the projections may instead be based on the participant census data as of the first day of the plan year preceding the year in which the plan's initial application is filed. If a plan experiences a significant event between the date of the plan's most recent participant census date and the date the application is filed, PBGC's assumptions guidance (issued on PBGC's website at [www.pbgc.gov/guidance](http://www.pbgc.gov/guidance)) provides guidelines on how to reflect that significant event. Plans may, but are not required to, use the guidelines if they are reasonable for the plan.

The SFA measurement date, which is the beginning date for the deterministic projections, is a date certain in the past instead of a payment date in the future because the SFA payment date (described under § 4262.12) is unknown at the time the plan sponsor files the application. This approach of using a date certain in the past instead of a date in the future simplifies the calculation but does not change the SFA amount that would otherwise be calculated as of the payment date because: (i) Both the SFA-eligible plan resources and SFA-eligible plan obligations will be reduced equally by the benefit payments and expenses between those two dates, (ii) the contributions between those two dates would typically need to be estimated either way, and (iii) the SFA amount is adjusted for interest between those two dates at the interest rate used to calculate the present values as of the SFA measurement date.

Section 4262.4(e)(1) of the regulation specifies the interest rate assumption a plan must use to calculate the amount of SFA in the plan's application. Section 4262(e)(2)(A) of ERISA requires a plan to use an interest rate that is based on the rate used in the plan's most recently completed certification of plan status before January 1, 2021, subject to an interest rate limit, but does not consider that there are potentially two rates used in a certification of plan status: A short-term rate (used for projecting plan assets) and a long-term rate (used to determine plan liabilities and for interest adjustments in the funding standard account). As the determination of the SFA amount involves long-term projections, the regulation specifies that the SFA amount is calculated based on

the long-term rate that was used for funding standard account purposes in the plan actuary's projections that are part of the certification of plan status.

The interest rate limit specified in section 4262(e)(3) of ERISA is the rate that is 200 basis points higher than the rate specified in section 303(h)(2)(C)(iii) (disregarding modifications made under clause (iv) of such section) "for the month in which the plan's application for SFA is filed or the 3 preceding months." This provision places a "cap" on the interest rate, and that the cap is any permissible rate for a month during the 4-month period ending with the month in which the plan's application was filed.

Section 4262(f) of ERISA suggests that a plan may have multiple filing dates by providing two applications deadlines: One for initial applications and one for revised applications. There is no limit to the number of times that a plan sponsor may file revised applications as long as the last revised application is filed by the statutory deadline of December 31, 2026. Once PBGC has accepted an application for processing, PBGC believes that it is in the best interest of all parties to avoid the duplicative work and delays that would result if a revised application were to use a different interest rate. To prevent multiple filings for purposes of changing the interest rate, PBGC establishes a rule in § 4262.11(c) that the assumed interest rate will always be the rate used in the plan's initial application.

Accordingly, under § 4262.4(e)(1), the assumed interest rate is the interest rate that is the lesser of the rate used by the plan for funding standard account projections in the plan's most recently completed certification of plan status before January 1, 2021, or the rate that is 200 basis points higher than the rate specified in section 303(h)(2)(C)(iii) of ERISA (disregarding modifications made under clause (iv) of such section) for any month selected by the plan in the 4-month period ending with the month in which the plan's application was filed (or the month in which the initial application was filed if there was more than one filing date). If an application is revised as provided under § 4262.11 of the regulation, the interest rate used for the revised application must be the same as the interest rate used for the initial application.

Some interested parties commented that the interest rate required under section 4262(e) of ERISA should only apply to the earnings on current plan assets and that PBGC should allow a separate rate to be used to determine the amount of SFA required to pay for benefits not provided by current plan

assets. Of those commenters, some contend that because the 2020 certifications of plan status did not include an interest rate assumption for SFA, the interest rate should reflect expected returns for investment grade bonds. To determine eligibility, for certifications of plan status completed after December 31, 2020, section 4262(e)(1) requires a plan to use its most recently completed certification of plan status before January 1, 2021, unless such assumptions, *excluding the plan's interest rate*, are unreasonable (emphasis added). To determine the amount of SFA, section 4262(e)(2) mandates that a plan must "use the interest rate used by the plan in its most recently completed certification of plan status before January 1, 2021, provided that such interest rate may not exceed the interest rate limit." These provisions do not require the interest rate used under the certification of plan status to be reasonable for purposes of eligibility or determining the amount of SFA. Under section 4262(e)(4), if a plan determines that use of one or more prior assumptions is unreasonable, the plan may propose to change such assumption. This provision specifically states that the plan may not propose a change to the interest rate required for eligibility or SFA amount. In addition, PBGC does not have authority to provide a different rate or bifurcate the statutorily mandated interest rate.

For assumptions other than the interest rate, § 4262.4(e)(2) provides that a plan must use the assumptions that the plan used in its most recently completed certification of plan status before January 1, 2021, unless such assumptions are unreasonable. If a plan determines that use of one or more of the assumptions in its most recently completed certification of plan status before January 1, 2021, is unreasonable, the plan may propose in its application to change the assumptions as provided in § 4262.5 of the regulation.

The information required to be included as part of an application, including to support changes to assumptions, is described in §§ 4262.6 through 4262.8 of the regulation. PBGC's review of the assumptions used by a plan is described in § 4262.5 of the regulation.

#### **Calculating the Amount of SFA With Respect to Certain Events**

Section 4262.4(f) addresses the possibility that a plan may implement certain changes that could entitle the plan to more SFA than was intended under section 4262 of ERISA. In these situations, the amount of SFA that would apply to a plan is limited to the

amount of SFA determined as if the events described in § 4262.4(f) had not occurred. These events include mergers, transfers of assets or liabilities (including spinoffs), certain increases in accrued or projected benefits, and certain reductions in contribution rates. The limitation applies to events that occur between July 9, 2021, and the SFA measurement date. To accommodate the possibility of multiple events, the limitation does not apply on an event-by-event basis but is based on comparing the amount of SFA a plan applies for with the amount of SFA a plan (or all plans in the case of a merger) would have received had the events not occurred.

Section 4262(b)(1) of ERISA establishes criteria for eligibility of a multiemployer plan for SFA, and section 4262(j) provides for determining the amount of the SFA, but these provisions do not address the situation in which a multiemployer plan has engaged in a transaction that affects the amount of SFA to which a plan is entitled, including through the manipulation of the eligibility criteria. Moreover, section 4262(e)(2)(B) provides, as a general rule, that the actuarial assumptions to be used by a plan are the assumptions used in the plan's actuarial certification for the most recently completed certification of plan status before January 1, 2021 (unless those assumptions are unreasonable), indicating that the plan applying for SFA must have been in existence and had an actuarial certification as to its status before January 1, 2021. The provisions regarding interest rate assumptions under section 4262(e)(2)(A) are specific to the plan in its most recent certification of plan status completed before January 1, 2021, and, under the terms of section 4262(e), those assumptions cannot be changed. A manipulation of those rates via a merger would not be consistent with that requirement. Although the statute does not directly address plan mergers, each plan's assumptions from the most recently completed pre-2021 certification of plan status must be maintained in order for section 4262(e) to have meaning with respect to the plans that merged. This rule fills the gap left in the statute for the calculation of SFA for plans that have been involved in a merger.

It is likewise appropriate for PBGC, as a prudent steward of taxpayer funds, and with responsibility for carrying out the purposes of the title IV insurance program,<sup>12</sup> to impose conditions on

plans receiving SFA designed to ensure that plans receive no more than the amount of SFA to which they are entitled. PBGC concludes that, to achieve that end, it is reasonable not to give effect to changes made to a plan's structure or terms on or after July 9, 2021, if such changes either artificially inflate the amount of SFA to which a plan is entitled or convert an ineligible plan into an eligible plan.

Section 4262(m)(1) of ERISA expressly authorizes PBGC, in consultation with the Secretary of the Treasury, to impose reasonable conditions "on an eligible multiemployer plan that receives special financial assistance" relating to certain aspects of plan terms or operations. Such conditions include those relating to the diversion of contributions to, and allocation of expenses to, other benefit plans; increases in future accrual rates and any retroactive benefit improvements; and reductions in employer contribution rates. PBGC's authority to impose reasonable conditions under section 4262(m)(1) is not limited to restrictions on a plan following its receipt of SFA given that these conditions apply to a plan that "receives" SFA, rather than a plan that has received SFA. That understanding of section 4262(m)(1) finds further support in section 4262(m)(2), which restricts the conditions that PBGC can impose not only "following receipt of" SFA, but also "as a condition of" SFA. That broad prohibition would be unnecessary if PBGC's authority under section 4262(m)(1) was limited to only post-receipt conditions.

Accordingly, pursuant to section 4262(m) of ERISA, in conjunction with sections 4002(b)(3) and 4262(e), PBGC is authorized to impose reasonable conditions that ensure that SFA is provided to plans in an amount that is not inflated by way of contrived events.

#### **(a) Mergers**

The rule provides that if two or more plans are merged, then the SFA is limited so that it does not exceed the sum of the SFA that would have been calculated for all of the plans involved in the merger had the plans applied separately for SFA. Thus, a plan that would not have been entitled to any SFA if not for a merger that occurs on or after July 9, 2021, cannot become entitled to SFA by merging with a plan that also would not otherwise be entitled to any SFA. Further, a plan may not increase the amount of SFA to

<sup>12</sup> PBGC's inherent authority under section 4002(b)(3) of ERISA allows PBGC to adopt

regulations to carry out the purposes of the title IV insurance program.

which it is entitled by merging with another plan or plans on or after July 9, 2021.

As explained earlier in this section of the preamble, this condition fills the gap in the rules for the calculation of SFA for plans that merge after the most recent certification of plan status completed before January 1, 2021. In addition, this requirement is consistent with PBGC's authority under section 4262(m)(1) of ERISA to impose reasonable conditions relating to the "diversion of contributions to, and allocation of expenses to, other benefit plans." When two or more plans merge, a predecessor plan has diverted its contributions and allocated its expenses to the merged plan. Specifically, a merged plan, which combines assets and liabilities of two or more plans, each with its own set of participants and beneficiaries, and to all of whom all the assets (and, thus, all the contributions) must be available following the merger, is, in effect, diverting contributions intended to benefit one set of participants to another.

#### (b) Transfers

The rule provides that where assets or liabilities are transferred, an applicant plan's SFA is limited based on the amount of SFA the plan would be entitled to if the transfer did not occur. Similar to mergers, this requirement is premised on PBGC's authority under section 4262(m)(1) of ERISA to impose reasonable conditions relating to the "diversion of contributions to, and allocation of expenses to, other benefit plans."

#### (c) Other Events

Similar considerations apply to benefit increases and contribution reductions. These events are also described in section 4262(m)(1) of ERISA, which permits PBGC to impose conditions on the receipt of SFA relating to "increases in future accrual rates and retroactive benefit improvements" and on "reductions in employer contribution rates." These events are ordinarily thought of as increasing burdens on plans, and changes of this type are not commonly adopted with respect to plans in financial distress. Because SFA is designed to relieve financial distress, creating or increasing burdens could be a net plus for a plan. In other words, absent an effective condition in this regulation, these events would create artificial financial stress on the plan with the expectation that the plan would be compensated through the payment of additional SFA. To prevent this manipulation of the standards for

determining the amount of SFA, the rule provides that SFA is limited to the amount that would have applied had the event not occurred.

There is an exception to this rule. One possible benefit increase could arise from the restoration of benefit suspensions of retirees and beneficiaries in pay status that satisfies the requirements of 26 CFR 1.432(e)(9)–1(e)(3). Under that Treasury Department regulation, the restoration of benefits is not subject to the benefit increase restrictions under sections 432(e)(9)(E) or 432(f)(1)(B) of the Code, and an amendment restoring benefits that satisfies the requirements of 26 CFR 1.432(e)(9)–1(e)(3) can be adopted at any time. Because a major goal of the SFA program is the prompt resumption of payment of suspended benefits, the restoration of these benefits should be encouraged and the exception in these regulations (under which benefit increases pursuant to such an amendment are taken into account in determining the amount of SFA) facilitates that goal. If an amendment that satisfies 26 CFR 1.432(e)(9)–1(e)(3) is adopted before the SFA measurement date, it is taken into account in determining the amount of the SFA (as the benefits attributable to the restoration would be if the amendment were adopted later), and the adoption is not an event that is subject to the limitation on SFA arising from potential abuses.

Finally, if two or more plans are merged and any of the plans involved in the merger also experienced a transfer of assets or liabilities, a benefit increase, or a reduction in contributions that would be subject to the limitation in § 4262.4(f) during the period described in § 4262.4(f)(1)(i), the amount of SFA for the merged plan must be determined by applying the limitation in § 4262.4(f)(1)(i) to the plan that experienced the other applicable event.

#### *PBGC Review of Plan Assumptions*

PBGC's review of an application for SFA will focus on the reasonableness of the plan's and the plan actuary's demonstration regarding the amount of SFA for the plan. Section 4262.5 sets forth how PBGC will review plan assumptions.

As described earlier, instead of prescribing actuarial assumptions to be used for determining SFA, or calling on PBGC to prescribe assumptions, section 4262 of ERISA generally looks to plan assumptions previously selected by the plan actuary for determining eligibility for and calculating the amount of SFA. A mechanism is provided for a plan to propose changes to actuarial

assumptions if it determines that the use of one or more of its original assumptions (other than the interest rate) is unreasonable.

Actuarial assumptions under section 4262 of ERISA are derived from a plan's certification of plan status under section 305 of ERISA. In general, PBGC believes that a plan's actuarial assumptions adopted for the certification of plan status (and not for entitlement to SFA) represent a neutral view of circumstances, unbiased by the prospect of receiving a substantial sum of money based on those assumptions. Accordingly, PBGC expects to give far less intensive scrutiny to "original" assumptions than to changed assumptions.

PBGC is to accept actuarial assumptions incorporated in a plan's certification of plan status completed before 2021 for purposes of eligibility under § 4262.3(d)(1) unless PBGC determines that such assumptions are "clearly erroneous."

For all other purposes, PBGC will accept the assumptions used unless PBGC determines that they are unreasonable. Each of the actuarial assumptions and methods used for the actuarial projections (excluding the interest rate), must be reasonable in accordance with generally accepted actuarial principles and practices,<sup>13</sup> taking into account the experience of the plan and reasonable expectations. To be reasonable, among other things, an actuarial assumption or method must be appropriate for the purpose of the measurement, reflect the actuary's professional judgment, take into account current and historical data that is relevant to selecting the assumption for the measurement date, reflect the actuary's estimate of future experience, and reflect the actuary's observation of the estimates inherent in market data (if any). In addition, an actuarial assumption or method must be expected to have no significant bias (*i.e.*, it is not significantly optimistic or pessimistic).

If a plan determines that one or more original assumptions are unreasonable and must be changed, § 4262.5(c) provides that the plan's application must describe why the original assumption is no longer reasonable, disclose the changed assumption, and demonstrate that the changed

<sup>13</sup> Actuarial Standards of Practice (ASOPs) are issued by the Actuarial Standards Board and are available at <http://www.actuarialstandardsboard.org/standards-of-practice>. Certain ASOPs, including ASOPs Nos. 4, 23, 27, 35, 41, and 56 may be relevant to the actuary's work related to special financial assistance, including the assessment of the reasonableness of the actuary's assumptions and methods.

assumption is reasonable. If there is a change in assumptions, each of the actuarial assumptions and methods (other than the interest rate) must be reasonable and the combination of those actuarial assumptions and methods (excluding the interest rate) must also be reasonable. With large amounts of SFA at stake, PBGC will be called on to perform a more searching analysis of any changed assumptions. While PBGC expects actuaries to be conscientious in setting assumptions, it is a process that presents many opportunities for judgment calls that may be influenced by the goal of maximizing SFA.

Concurrent with this interim final rule, PBGC has issued guidelines for changes to certain assumptions that plans may use for purposes of determining eligibility for SFA and the amount of SFA. Plans may, but are not required to, use the guidelines if they are reasonable for the plan. Guidelines are available for contribution base units (CBUs), administrative expenses, mortality, contribution rates, and new entrant profiles, and can be found in the guidance issued on PBGC's website at [www.pbgc.gov/guidance](http://www.pbgc.gov/guidance).

Additionally, PBGC acknowledges that plans may have a gap in the assumption for projected CBUs and administrative expenses used in the prior certification of plan status such that the assumption cannot be used "as is" for determining SFA. This is because plans generally do not project these assumptions more than 20 years in the future. In addition, before the enactment of ARP, if a plan was projected to become insolvent within 20 years, then the plan is unlikely to have assumptions for CBUs or plan-related administrative expenses for years after the projected insolvency date. These are natural practices for purposes of a certification of plan status, but a significant deficiency where those assumptions are needed to determine the amount of SFA. A plan can fill this gap with any reasonable extension of its CBU assumption and administrative expense assumption, but that will generally mean a "change" in assumptions, triggering a more intensive (and time-consuming) review by PBGC. To assist applicants and aid in the review of a plan's CBU assumption and administrative expense assumption, PBGC has developed "standard" extensions that plans can use to complete the assumption set for a plan that otherwise can use its original assumptions. These assumptions are described in the guidance mentioned earlier in this section of the preamble.

#### *Information To Be Filed*

Sections 4262.6 through 4262.8 of the regulation describe the information that must be included in a plan's SFA application. Section 4262.6 summarizes the requirements for an application to be considered complete, including plan information; actuarial and financial information (including the amount of SFA requested); a completed checklist (per the SFA instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov)); the signature of an authorized trustee who is a current member of the board of trustees; a signed penalties of perjury statement; a copy of the executed plan amendment providing that, beginning with the SFA measurement date, the plan must be administered in accordance with the restrictions and conditions specified in section 4262 of ERISA and this regulation; a copy of the proposed plan amendment to reinstate benefits and pay make-up payments and certification by the plan sponsor that the plan amendment will be adopted timely; and information required by PBGC to clarify or verify the information in a filed application. If any of the information required under this part and in the SFA instructions is missing from the filed application, the application will not be considered complete.

The SFA instructions, including templates, supplement the regulation and provide guidance to plan sponsors and practitioners on how to prepare and file the required application information.

Sections 4262.6 through 4262.8 and the instructions specify the minimum necessary plan, actuarial, and financial information that PBGC requires to approve or deny an application for SFA and to verify the amount of SFA within the short 120-day review window permitted under section 4262(g) of ERISA. As described in the *Paperwork Reduction Act* section of this preamble, the application instructions and checklist have been submitted to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act. OMB's decision regarding this information collection request will be available at <http://www.Reginfo.gov>.

Unless confidential under the Privacy Act, all information that is filed with PBGC for an application for SFA may be made publicly available, at PBGC's sole discretion, on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov) or otherwise publicly disclosed. Except to the extent required by the Privacy Act, PBGC provides no assurance of confidentiality in any information or documentation included in an application for SFA.

#### *Application for Plans With a Partition*

Under section 4233 of ERISA, a plan may apply to PBGC for a partition to fund a portion of the plan's benefits to avoid insolvency. Upon PBGC's approval of an application for partition, PBGC issues a partition order to provide: (1) For a transfer from the original plan to the plan created by the partition order (the successor plan), the minimum amount of benefit liabilities necessary for the original plan to remain solvent, and (2) financial assistance from PBGC under section 4261 to pay those benefits. The successor plan is but a creature of PBGC's partition order, terminated and insolvent from its inception. The original and successor plans are required by section 4233(d)(2) to have the same plan sponsor and administrator.

Section 4262(c)(3) of ERISA requires PBGC to provide an alternative application for SFA that may be used for a plan approved for a partition before March 11, 2021. Section 4262.9 of PBGC's regulation describes this application.

The plan sponsor of a partitioned plan must apply for SFA using the alternative application, which contemplates PBGC's rescission of the partition order as prescribed under § 4262.9(c) and other conditions particular to a partitioned plan as described under § 4262.9(b). One of these conditions is that the plan sponsor must file a single application for SFA consisting of information about the original plan and the successor plan. The combined information must reflect that, on the date SFA is transferred to the plan, PBGC will rescind the order that created the successor plan, and the plan sponsor will remove plan provisions and amendments that were required to be adopted under the order.

Another condition is that the application must include a statement that the plan was partitioned and a copy of the provisions or amendments that the plan was required to adopt under the partition order. A partitioned plan's application must include all the required information described in §§ 4262.6 through 4262.8 for applications generally. However, if the plan sponsor of a partitioned plan has filed any of the required information with PBGC already, the sponsor is not required to include that information again with its SFA application. Instead, the sponsor must only note on the checklist described under § 4262.6(a) that the information was already filed.

Partitioned plans also have benefit suspensions that must be reinstated if the plan is approved for SFA. Under



§ 4262.15, a plan receiving SFA must reinstate benefits suspended under section 305(e)(9) of ERISA and provide make-up payments to participants and beneficiaries, to restore previously suspended benefits, in accordance with guidance issued by the Treasury Department and the IRS. This requirement applies to both the original plan and the successor plan created by a partition where benefits under the original plan were suspended. Having the original and successor plans apply as one will ensure coordinated benefit reinstatements for all participants in the partitioned plan.

The filing of an application for a partitioned plan falls under priority group 2 for purposes of § 4262.10(d) (explained in *Processing applications*), consistent with other plans that are eligible for SFA because they have implemented a suspension of benefits under section 305(e)(9) of ERISA as of March 11, 2021. The plan sponsor of a partitioned plan, therefore, may file an application for SFA beginning on January 1, 2022, or earlier date specified on PBGC's website.

Partitioned plans have also been receiving financial assistance from PBGC with repayment obligations under section 4261 of ERISA. How financial assistance under section 4261 is repaid is prescribed under § 4262.12(b) of the regulation.

#### *Processing Applications*

PBGC expects the SFA program to attract many applicants, and the statute makes clear that PBGC is expected to process applications quickly. PBGC is required to hold application processing times to within 120 days and is given authority to manage that process.

Under section 4262(c) of ERISA, PBGC must issue regulations or guidance setting forth requirements for SFA applications. Applications are considered timely filed under section 4262(g) only if they are filed in accordance with PBGC's regulations. PBGC's inherent authority under section 4002(b)(3) of ERISA allows PBGC to adopt regulations relating to the conduct of its business and to carry out the purposes of the title IV insurance program. Under section 4262(d) of ERISA, PBGC also may limit the filing of SFA applications to filings for plans that are in one or more of four "priority" categories during a period limited to within the first 2 years after March 11, 2021.

While PBGC is confident in its ability to process an application within the

mandated 120 days, it might not be able to process all applications timely if many applications must be processed within a brief period. Thus, PBGC is concerned about the rate at which applications are submitted for processing. Relying on the aforementioned authorities that allow PBGC to administer the SFA application process, PBGC has developed a "metering" system to manage the filing and processing of applications. The goal of this system is to process the large number of expected applications within the 120 days mandated by the statute, while avoiding both "floods" of applications that could cause applications to be deemed approved (as described in § 4262.11) without sufficient PBGC review, and "droughts" when processing capacity is sitting idle. The risks of an insufficiently reviewed application are varied, including, but not limited to, SFA payments that are insufficient to meet program requirements, and SFA payments that are higher than necessary to meet program requirements. These risks are exacerbated by the lump sum form of payment required by ARP. To manage these risks and ensure the success, integrity, and proper stewardship of the program, it is important that PBGC thoroughly review each application.

The electronic filing system described in § 4262.10 of the regulation is based on three mechanisms. The first mechanism permits PBGC to accept applications in a manner that in PBGC's estimation allows for sufficient review and processing within 120 days of filing. The inherent authority provided by section 4002(b)(3) of ERISA to issue regulations related to the conduct of its business, and the directive under section 4262(c) to set forth requirements for applications, clearly authorize PBGC to limit the number of applications it will accept at any one time, and to close the filing window to avoid choking the processing system, provided that every prospective submitter has a fair opportunity to file its application by December 31, 2025 (or December 31, 2026, for a revised application).

The second mechanism is a priority system permitted by section 4262(d) of ERISA. PBGC is establishing "priority" periods during which an application will be accepted only for a plan that is in the category (or one of the categories) to which the period is limited. This mechanism is consistent with section 4262(d), although not a direct implementation of that provision, which

(by its use of the disjunctive "or") indicates that priority status may be extended to any one or more subgroups of priority-status plans and which does not limit the number of priority submission windows. Accordingly, PBGC has designed this mechanism to prioritize the most impacted plans and participants first. For example, the highest priority is given to applications of plans that are projected to become insolvent under section 4245 of ERISA by March 11, 2022, so that they will not have to reduce participant benefits, and plans that are already insolvent, to enable them to reinstate benefits and provide make-up payments to participants and beneficiaries, to restore previously suspended benefits. The objective is to accept and process as many applications in the highest priority group as possible before opening the submission process to the next priority group. Ultimately—no later than March 11, 2023—the submission process will be opened to all eligible plans, to ensure that every prospective submitter has a fair opportunity to file its application during the statutory period. As described earlier in this section of the preamble, PBGC will continue to meter the flow of applications to avoid exceeding its capacity to process them within 120 days.

PBGC will accept applications for filing for priority group 1 beginning on July 9, 2021. The second highest priority is given to applications of plans that have implemented a suspension of benefits under section 305(e)(9) of ERISA as of March 11, 2021, to enable them to reinstate benefits and provide make-up payments to participants and beneficiaries to restore previously suspended benefits, and plans expected to be insolvent within 1 year of the date an application for SFA is filed. PBGC will accept applications for filing for priority group 2 beginning no later than January 1, 2022. The filing dates for applications from the remaining four priority groups (groups 3–6) are provided for in § 4262.10(d)(2)(iii) through (vi), with filings for priority groups 5 and 6 beginning no later than February 11, 2023. In addition, PBGC will specify on its website, at least 21 days in advance, the date the last 2 priority groups (groups 5 and 6) may file.

This table shows when applications for each priority group may begin to be filed.

Priority group	Description of priority group	Date plans may apply for SFA
1 .....	Plans already insolvent or projected to become insolvent before March 11, 2022.	Beginning on July 9, 2021.
2 .....	Plans that implemented a benefit suspension under section 305(e)(9) of ERISA as of March 11, 2021. Plans expected to be insolvent within 1 year of the date an application for SFA is filed.	Beginning on January 1, 2022, or earlier date specified on PBGC's website.
3 .....	Plans in critical and declining status that had 350,000 or more participants.	Beginning on April 1, 2022, or earlier date specified on PBGC's website.
4 .....	Plans projected to become insolvent before March 11, 2023 ...	Beginning on July 1, 2022, or earlier date specified on PBGC's website.
5 .....	Plans projected to become insolvent before March 11, 2026 ...	Date to be specified on PBGC's website at least 21 days in advance of such date, but no later than February 11, 2023.
6 .....	Plans for which PBGC computes the present value of financial assistance under section 4261 of ERISA to be in excess of \$1 billion (in the absence of SFA).	Date to be specified on PBGC's website at least 21 days in advance of such date, but no later than February 11, 2023.
7 .....	Additional plans that may be added by PBGC based on other circumstances similar to those described for priority groups 1–6.	Date to be specified on PBGC's website no later than March 11, 2023.

As priority groups open, PBGC will continue to accept applications from plans in earlier priority groups. While the priority mechanism may entail a relatively short deferral of an application for a given plan until its respective priority group opens, the amount of SFA ultimately awarded will reflect the amount required to pay all benefits due pursuant to the statute.<sup>14</sup>

Applications of plans in a priority category must also be submitted to the Secretary of the Treasury under section 432(k)(1)(D) of the Code. If that requirement applies to an application, PBGC will transmit the application to the Treasury Department on behalf of the plan, and the Treasury Department has provided in guidance (Notice 2021–38) that it will treat the requirement under section 432(k)(1)(D) as satisfied.

The third mechanism is a notification system on PBGC's website to keep prospective applicants apprised of when a filing window opens or closes and (if applicable) to what priority groups filing is limited. This mechanism will enable applicants to know when the system is accepting their priority group's filing.

In sum, the system works like this:

- Applications will be accepted initially only from plans in the highest priority group. PBGC will begin accepting applications from the other priority groups as of the dates described earlier in this section of the preamble (and set forth in § 4262.10(d)(2) of the regulation) and posted on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

- Applications are processed based on capacity. An application will be considered filed on the date it is electronically submitted to PBGC if the application meets any applicable

priority requirements and can be accommodated in accordance with the processing system. Otherwise, PBGC will not consider the application filed and will notify the applicant that the application must be filed in accordance with the processing system and instructions on PBGC's website.

PBGC will accept as many applications as the agency estimates it can process in 120 days. Once the number of applications reaches that level, the filing window will temporarily close until PBGC has capacity to process more applications. PBGC will maintain a dedicated web page for applications on its website at [www.pbgc.gov](http://www.pbgc.gov) to inform prospective applicants about the current status of the filing window, as well as to provide advance notice of when PBGC expects to open or temporarily close the filing window. PBGC will contact interested prospective applicants via email when such new information is available. PBGC will also post information about the status of filed applications.

A plan sponsor may contact PBGC informally to discuss a potential application for SFA.

#### *Emergency Filings*

PBGC recognizes that in rare circumstances a plan may experience an event that brings it closer to insolvency than previously projected. Consistent with section 4262(d)(1)(D) of ERISA, which allows PBGC to add priority categories as it determines appropriate based on other similar circumstances, PBGC is including an emergency filing process to accept priority applications from a plan that is insolvent or expected to be insolvent under section 4245(a) of ERISA within 1 year of filing an application, or a plan that has implemented a suspension of benefits under section 305(e)(9) of ERISA as of

March 11, 2021. Beginning with PBGC's acceptance of "priority group 2" filings, PBGC will accept emergency filings from these plans during periods when PBGC would not otherwise accept such applications. A filer submitting an application under the emergency filing process must substantiate the claim of emergency status and notify PBGC, in accordance with the SFA instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov), before submission of the impending application.

#### *PBGC Action on Applications*

Section 4262(g) of ERISA provides that PBGC can either approve or deny an application for SFA and establishes a short time period during which PBGC must act or an application is deemed approved. As described under § 4262.11 of the regulation, PBGC must act on an application within 120 days after the date an initial or revised application is properly and timely filed. If PBGC approves an application, it will notify the plan sponsor of the payment of SFA in accordance with § 4262.12.

If PBGC denies an application, it will notify the plan sponsor in writing of the reasons for the denial. An application may be denied because it is incomplete (it does not accurately include the information required to be filed); because an assumption is unreasonable, a proposed change in assumption is individually unreasonable, or the proposed changed assumptions are unreasonable in the aggregate; or because the plan is not an eligible multiemployer plan. For example, pending approval of an application if PBGC determines that documentation supporting a certification of critical and declining status is missing or the plan sponsor has not responded to a PBGC request for information to clarify an item in that documentation, PBGC's

<sup>14</sup>For instance, the value of plan assets may fluctuate during a deferral period and the amount of SFA will adjust based on that experience.

notice will identify the missing information or documentation required to complete the application. If PBGC denies an application, the plan sponsor may choose to submit a revised application or withdraw the denied application. If the plan sponsor submits a revised application, the revised application must not differ from the denied application except to the extent necessary to address the reasons stated in PBGC's notification for the denial. In other words, PBGC is not requiring a plan sponsor to refile the entire application. PBGC only needs the information that cures the reasons specified in the denial notice.

The plan sponsor may withdraw an application (in writing and in accordance with the SFA instructions on PBGC's website, [www.pbgc.gov](http://www.pbgc.gov)) at any time before or after PBGC denies the application, but not after PBGC has approved the application. If an application is withdrawn, the plan sponsor may refile the application as a revised application.

For any revised application, PBGC requires that the "base data" (the SFA measurement date, participant census data, and interest rate assumption) remain the same as reported on the plan's initial application to guard against multiple filings for purposes of changing this data. Once PBGC has accepted an initial application for processing, PBGC believes that it is in the best interest of all parties to avoid the duplicate work and delays associated with changes to the base data. Accordingly, if the plan sponsor withdraws an application and submits a revised application it must use the base data from its initial application, but it may make other changes.

PBGC's decision on an application for SFA is a final agency action for purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 704).

#### *Payment of Special Financial Assistance*

Section 4262(j) of ERISA provides that SFA is the amount required for an eligible plan to pay all benefits due from the date PBGC pays the SFA to the plan until the last day of the plan year ending in 2051. But as described earlier in this preamble, a plan sponsor does not know when SFA will be paid at the time the sponsor prepares an application. The SFA amount supported by an application and approved by PBGC will be the amount appropriate to a date in the past. The amount of SFA could be recomputed as of the date of payment, yet the result would still be an estimate and the burden of computation would

be significant. Instead, § 4262.12 provides that PBGC will pay a plan the amount demonstrated under the plan's application, determined as of the SFA measurement date, plus interest on that amount, representing the time differential between the computation and the date PBGC sends payment (not the bank settlement date) and using the interest rate equal to the rate required under § 4262.4(e)(1).

Section 4262.12(d) of the regulation provides that PBGC will pay SFA to a plan in a lump sum or substantially so<sup>15</sup> as soon as practicable upon approval of the plan's SFA application. PBGC expects payment to be made usually within 60 days, but no later than 90 days after the plan's SFA application is approved by PBGC or deemed approved (and in any event not later than September 30, 2030). Payment will be made in accordance with payment instructions provided by the plan in its application. Payment will be considered made when, in accordance with the plan's payment instructions, PBGC no longer has ownership of the amount being paid. Any adjustment for delay will be borne by PBGC only to the extent that it arises while PBGC has ownership of the funds.

For a plan with an obligation to repay financial assistance under section 4261 of ERISA, the regulation describes the process for that repayment.

Unlike assistance under section 4261, section 4262(a)(2) of ERISA provides that payment of SFA is not a loan subject to repayment obligations. However, PBGC clarifies in § 4262.12(d)(1) that SFA is subject to recalculation or adjustment to correct a clerical or arithmetic error. PBGC will, and plans must, make payments as needed to reflect any such changes in a timely manner. SFA is also subject to debt collection if PBGC determines that a payment for SFA to a plan exceeded the amount to which the plan was entitled. Section 4262.12(d)(2) provides the rules for payment of a debt owed to the Federal Government.

#### *Restrictions on Special Financial Assistance*

Section 4262(l) of ERISA places restrictions on the use of SFA. These restrictions are described in § 4262.13 of the regulation. SFA received, and any earnings thereon, must be segregated from other plan assets and may only be used to make benefit payments and pay plan expenses (but SFA may be used

before other plan assets are used for these purposes). In addition, SFA (and earnings) must be invested by plans in investment-grade bonds or other investments as permitted by PBGC in § 4262.14. These limitations on the use of SFA reflect the purpose of SFA. As provided for under section 4262(j)(1) of ERISA and in § 4262.4, SFA is the amount required for the plan to pay all benefits due during the SFA coverage period taking into account all plan resources and obligations. SFA should not be used in a manner that would divert SFA funds to other purposes—for instance, reducing sources of plan income, such as employer contributions or withdrawal liability, or increasing plan obligations, such as to pay for additional future increases in benefits.

#### *Permissible Investments*

Section 4262(l) of ERISA requires that SFA received, and any earnings thereon, may be used to make benefit payments and pay plan expenses, and such SFA and earnings must be held separately from other plan assets. Section 4262(l) also requires that SFA funds be invested in investment-grade bonds or other investments permitted by PBGC.

Given the statute's requirement that SFA funds, and any earnings on investment of those funds, be used solely to pay benefits and plan expenses, PBGC understands that SFA funds should be invested in relatively safe vehicles that will help ensure that short-term needs to pay benefits and plan expenses can be met. That section 4262(l) of ERISA refers to investment-grade bonds first, supports this view. The allowance under section 4262(l) for "other investments permitted by the corporation" could provide some flexibility (as well as limited exposure to other assets), but PBGC in this interim final rule is reluctant to allow for investment vehicles with fundamentally different characteristics without further input from the public.

Section 4262.14 of the regulation describes the permitted investments of SFA, referred to as permissible investments. To give effect to the evident intention that SFA be invested in relatively safe investments, the regulation permits SFA and earnings on SFA to be invested only in fixed income securities that must be considered investment grade except for a 5 percent sleeve that allows a plan to hold on to investments that were considered investment grade at the time of purchase but are no longer of that credit quality. Thus, SFA funds will be fairly protected and plans will have clear expectations about what the income return will be.

<sup>15</sup> For example, if a plan's SFA payment exceeds the statutory limitation for a federal wire of \$10 billion, the plan will receive multiple Fedwire payments that will equal the approved lump sum amount.

Permissible investments may be held in individual fixed-income securities or in commingled funds, such as Exchange Traded Funds (ETFs), mutual funds, pooled trusts, or other commingled securities (which are defined in the regulation as permissible fund vehicles). To ensure the quality of the securities that may be invested with SFA, the regulation provides that permissible investments are considered investment grade if a fiduciary, within the meaning of section 3(21) of ERISA, who is or seeks the advice of an experienced investor (such as an Investment Advisor registered under section 203 of the Investment Advisor's Act of 1940) makes such a determination.

For purposes of the regulation, investment grade means publicly traded securities for which the issuer has at least adequate capacity to meet the financial commitments under the security for the projected life of the asset or exposure. Adequate capacity means that the risk of default by the obligor is low and the full and timely repayment of principal and interest on the security is expected. These definitions are consistent with other Federal agency regulations that make reference to investment grade securities in compliance with Section 939A of the Dodd Frank Act of 2010.<sup>16</sup> Further, the requirement that securities be considered investment grade by an experienced investor acknowledges that plans receiving SFA, and their advisors, have the requisite investment knowledge and experience to make sound investment decisions.

Plans may be able to access fixed-income securities from overseas so long as the securities are denominated in U.S. dollars. In practice, this would mean that such securities are accessible mainly within publicly traded markets.

To acknowledge that securities held in ETFs, mutual funds, other commingled funds, or directly through a portfolio of individual securities, often are supplemented by derivatives that replicate exposure to physical bonds or that implement hedging strategies to protect against downside risk, the regulation permits investment in vehicles allowing for such strategies so long as any derivative or leveraging strategy does not increase the interest rate risk or credit risk of the investments beyond the risk in a similar portfolio of physical securities (*i.e.*, non-derivative securities) with the same market value. Further, any notional derivative exposure<sup>17</sup> on permissible investments

that are held in separate accounts (*i.e.*, not through a permissible fund vehicle), must be supported by liquid assets that are cash or cash equivalents denominated in U.S. dollars. This will ensure that the plan or the investment manager will be able to cover the derivative exposure with little risk to SFA assets.

In listening sessions with interested parties, PBGC heard concerns about how overly restrictive requirements on how SFA assets could be invested could have significant adverse impacts on overall plan financial health. For instance, with interest rates on fixed income securities remaining at historically extremely low levels, both SFA and other plan assets could be depleted and be unable to pay plan benefits long before 2051. PBGC agrees with such concerns. Because PBGC thought it important for plans exploring whether to apply for SFA to know what restrictions could be placed on investment of SFA funds, PBGC is providing a starting point for discussion on permissible investments of SFA assets in this interim final rule. With an eye toward finding a more appropriate balance between certainty and safety of investments on the one hand, and the opportunity for plans to have flexibility to decide appropriate overall investment policies on the other, PBGC seeks public input for refining § 4262.14. In particular, PBGC requests responses, with corresponding data, on the following:

(1) PBGC is interested in understanding the potential benefits and risks of investing SFA assets in other vehicles that are or have the nature of fixed income. These might include synthetic replications of fixed income securities, insurance contracts, hybrid securities, preferred stock or other vehicles. In this regard, the following questions are of interest:

- What are the advantages of investing in such vehicles, relative to a portfolio of investment grade fixed income, in terms of expected returns, reduced risk or other improved outcomes?

- What are the disadvantages of investing in such vehicles relative to a portfolio of investment grade fixed income, including lower returns, higher risk, inequitable outcomes amongst participants or other issues?

- What are the implementation and management costs of investing in such vehicles?

total value of a position, how much value a position controls, or an agreed-upon amount in the contract. Definition provided on "Investopedia" at <https://www.investopedia.com/terms/n/notionalvalue.asp>.

- Which organizations are qualified to manage and advise on these vehicles?
- Can the vehicles, as they might be used in multiemployer plan portfolios or in the pool of SFA assets, be clearly defined and easily used?

(2) Should permissible investments of SFA assets be limited to fixed income securities? For instance, should the rule permit investment of a percentage of SFA assets in certain stock ETFs or mutual funds that have investment profiles that are not materially riskier than fixed income-based investment grade securities?

(3) What is the appropriate amount of SFA assets that may be permitted to be invested in non-investment grade securities?

(4) What is the proper relationship to restrictions on SFA asset investments to other plan asset allocations?

#### *Conditions for Special Financial Assistance*

To ensure that SFA is used for the purpose of paying benefits and the expenses related to those benefit payments, section 4262(m)(1) of ERISA gives PBGC authority, in consultation with the Secretary of the Treasury, to impose reasonable conditions on an eligible multiemployer plan that receives SFA. Conditions may relate to increases in future accrual rates and any retroactive benefit improvements, allocation of plan assets, reductions in employer contribution rates, diversion of contributions to, and allocation of expenses to, other benefit plans, and withdrawal liability. In determining what conditions to impose, in consultation with the Treasury Department, PBGC considered, among other things, the potential actions of contributing employers and the security of the accrued benefits of plan participants. These considerations are discussed in greater detail in the regulatory impact analysis section of the rule.

Under certain circumstances, a plan sponsor may request approval from PBGC for an exception to conditions relating to reductions in employer contribution rates, transfers or mergers, and settlement of withdrawal liability. These exceptions are explained later in this section of the preamble. PBGC is soliciting public comment on whether there are other circumstances relating to the conditions described under § 4262.16 where PBGC should consider providing approval for exceptions.

#### (a) Benefit Increases

Section 4262.16(b) imposes reasonable conditions on a plan that receives SFA with respect to the types

<sup>16</sup> See, e.g., 12 CFR 16.2.

<sup>17</sup> Notional value is a term often used to value the underlying asset in a derivatives trade. It can be the

of benefits and benefit increases described in section 4022A(b)(1) of ERISA, without regard to the time the benefit or benefit increase has been in effect. These conditions are intended to prevent excessive increases in benefits that would result in a transfer of SFA beyond the payment of benefits at the level that participants were promised as of the date of enactment of section 4262, without being overly restrictive. The condition does not apply to the required reinstatement of benefits suspended under sections 305(e)(9) or 4245(a) of ERISA or any restoration of benefits under 26 CFR 1.432(e)(9)-1(e)(3).

The condition in § 4262.16(b)(1) restricts retrospective benefit increases by providing that a benefit or benefit increase must not be adopted during the SFA coverage period (defined in § 4262.2 of the regulation) if it is in whole or in part attributable to service accrued or other events occurring before the adoption date of the amendment. This condition is needed because retroactive increases in benefits harm the funded position of the plan without improving expected future plan income.

The condition in § 4262.16(b)(2) restricts prospective benefit increases by providing that a benefit or benefit increase must not be adopted during the SFA coverage period unless the plan actuary certifies that employer contribution increases projected to be sufficient to pay for the benefit increase have been adopted or agreed to, provided that these increased contributions were not included in the determination of SFA. The plan sponsor must demonstrate that a benefit increase is paid for in the statement of compliance described under § 4262.16(i). This condition is intended to guard against plans implementing significant benefit increases that may accelerate plan insolvencies and hasten an inability to pay plan-level benefits. However, plans still have the flexibility to offer active participants more attractive benefit accruals when the plan is able to afford them.

These conditions on benefit increases are in addition to the limitations under section 305(f)(1)(B) of ERISA (and corresponding section 432(f)(1)(B) of the Code) applicable to plans in critical status.

#### (b) Allocation of Plan Assets

Section 4262.16(c) imposes a condition on a plan that receives SFA relating to the allocation of plan assets. This condition requires that, during the SFA coverage period, plan assets, including SFA, must be invested in permissible investments as described in § 4262.14 sufficient to pay for at least 1

year (or until the date the plan is projected to become insolvent, if earlier) of projected benefit payments and administrative expenses.

By imposing investment constraints on SFA assets in section 4262(l) of ERISA and providing PBGC the authority to impose additional constraints on asset allocation in section 4262(m), the statute contemplates a desire to prevent excessive risk-taking by plans that receive SFA. PBGC views the gradual increase in the proportion of assets allocated to fixed income as a plan approaches insolvency as a sensible and prudent approach to investing over a gradually shortening time horizon. However, PBGC is interested in whether this condition is seen as preventing plans from achieving reasonable investment objectives. PBGC encourages interested parties to respond, and provide supporting data, to the following questions:

- Will the requirement to maintain 1 year (or until the date the plan is projected to become insolvent, if earlier) of benefit payments and administrative expenses in investment grade fixed income assets result in an allocation that is significantly different from the allocation that the plan's investment policy (after receiving SFA) would otherwise attain?
- What are the advantages and disadvantages of PBGC not imposing any conditions under section 4262(m) of ERISA on asset allocation compared to the proposed condition requiring 1 year (or until the date the plan is projected to become insolvent, if earlier) of benefit payments and administrative expenses in investment grade fixed income?
- Could an alternative condition, or modification of the condition under § 4262.16(c), better achieve the objective of preventing excessive risk-taking by plans while allowing plans to meet their investment objectives?

#### (c) Contribution Decreases, Allocating Contributions and Other Practices

Section 4262.16(d) of the regulation imposes reasonable conditions on a plan that receives SFA relating to contribution decreases to ensure that SFA is used for the exclusive purpose of paying benefits and reasonable administrative expenses and is not effectively transferred to contributing employers through decreased contribution obligations. Similarly, § 4262.16(e) imposes reasonable conditions relating to allocation of income or expenses with another employee benefit plan and other practices.

For the condition on contribution decreases, § 4262.16(d) provides that

during the SFA coverage period, the contributions required for each CBU must not be less than, and the definition of the CBUs must not be different from, those set forth in collective bargaining agreements or plan documents in effect on March 11, 2021 (including agreed to contribution rate increases through the expiration date of the collective bargaining agreements).

The regulation provides an exception to this condition where the plan sponsor determines that the risk of loss to plan participants and beneficiaries is lessened by the reduction. Where the reduction affects annual contributions over \$10 million and over 10 percent of all employer contributions, PBGC must also determine that the change lessens the risk of loss to participants and beneficiaries. Information required to be submitted to PBGC for a request for approval of a proposed change is described in § 4262.16(d)(2). The exception is intended, for example, to allow a contributing employer to reduce contributions below collectively bargained rates so that the employer may continue in business and not be forced to withdraw in conjunction with a bankruptcy. This condition generally is intended to prevent reductions in contribution rates that may accelerate plan insolvencies, while providing limited flexibility for employers with extenuating financial circumstances.

With respect to the allocation of contributions and other practices during the SFA coverage period, § 4262.16(e) prohibits a decrease in the proportion of income (contributions, investment returns, etc.) or an increase in the proportion of expenses allocated to a plan that receives SFA. This prohibition applies to written or oral agreements or practices (other than a written agreement in existence on March 11, 2021, to the extent not subsequently amended or modified) under which income or expenses are divided or to be divided between a plan that receives SFA and one or more other employee benefit plans.

Among the practices covered by this prohibition is any allocation or reallocation of contribution rates from the plan receiving SFA to a newly formed pension plan. Similarly, plan expenses can be paid by a plan only if they are properly allocable to that plan. Accordingly, another prohibited practice is a change in the allocation of expenses with other benefit plans that serves to increase the proportion of expenses to be paid by the plan receiving SFA.

However, the prohibition under § 4262.16(e) does not apply to a good faith allocation of contributions

pursuant to a reciprocity agreement. (If the principal purpose of entering into, amending, or modifying a reciprocity agreement after March 11, 2021, is to circumvent § 4262.16(e), any allocation made pursuant to such reciprocity agreement will not be considered as made in good faith.) The prohibition also does not apply to a good faith allocation of contributions where the contributions to a plan that receives SFA required for each base unit are not reduced (except if the reduction is approved by PBGC). It also does not apply to a good faith allocation of the costs of securing shared space, goods, or services, where such allocation does not constitute a prohibited transaction under ERISA or is otherwise exempt from the prohibited transaction provisions pursuant to section 408(b)(2), 408(c)(2), or 408(a) of ERISA, or of the actual cost of services provided to the plan by an unrelated third party. As with the other conditions under § 4262.16, the condition under § 4262.16(e) is intended to ensure that plans receiving SFA do not engage in transactions that may accelerate plan insolvency.

#### (d) Transfers or Mergers

Section 4262.16(f) provides that during the SFA coverage period, a plan must not engage in a transfer of assets or liabilities (including a spinoff) or merger except with PBGC's approval. Notwithstanding anything to the contrary in PBGC's regulation on mergers and transfers between multiemployer plans (29 CFR part 4231), the plans involved in the transaction must request approval from PBGC. A request for approval must contain information that would be required to be submitted under § 4231.10 and the additional actuarial and financial information described in § 4262.16(f)(2). PBGC will approve a proposed transfer or merger if: (1) The transaction complies with section 4231(a)–(d) of ERISA, (2) the transfer or merger, or the larger transaction of which the transfer or merger is a part, does not unreasonably increase PBGC's risk of loss respecting any plan involved in the transaction, and (3) the transfer or merger is not reasonably expected to be adverse to the overall interests of the participants and beneficiaries of any of the plans involved in the transaction. An example of a larger transaction is where the trustees of a plan receiving SFA arrange a transfer of assets and liabilities from the plan and amend the plan to substantially or completely end benefit accruals in connection with the plan's active participants beginning to

accrue benefits under another existing or newly formed plan.

#### (e) Withdrawal Liability

Under sections 4201 through 4225 of ERISA, when a contributing employer withdraws from an underfunded multiemployer plan, the plan sponsor assesses withdrawal liability against the employer. Withdrawal liability represents a withdrawing employer's proportionate share of the plan's unfunded benefit obligations and is an important source of income for the plan. To assess withdrawal liability, the plan sponsor must determine the withdrawing employer's (1) allocable share of the plan's unfunded vested benefits (the value of nonforfeitable benefits that exceeds the value of plan assets) as of the end of the plan year before the employer's withdrawal as provided under section 4211, and (2) annual withdrawal liability payment as provided under section 4219. Under section 4219(c)(1), an employer's withdrawal liability may be reduced if the period required to amortize the liability exceeds 20 years.

To preserve SFA for the payment of benefits and expenses and avoid an indirect transfer of SFA to a withdrawing employer by reducing the employer's withdrawal liability, in § 4262.16 PBGC uses its authority under section 4262(m) of ERISA to place reasonable conditions relating to withdrawal liability on a plan that receives SFA. PBGC determined that a reasonable condition on a plan that receives SFA is to require specified interest assumptions to be used for purposes of determining withdrawal liability.<sup>18</sup>

Under § 4262.16(g), for withdrawals that occur after the plan year in which the plan receives SFA, the interest assumptions used in determining unfunded vested benefits for purposes of determining withdrawal liability must be mass withdrawal interest assumptions under § 4281.13(a) of PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281). PBGC's interest assumptions used for mass withdrawal liability approximate the market price insurance companies charge to assume a pension-benefit-like liability. Using mass withdrawal interest assumptions for purposes of calculating withdrawal liability is reasonable because withdrawal liability is the final settlement of the withdrawing

employer's obligation to pay for unfunded vested benefits. Doing so is particularly important for plans that have developed an adverse demographic structure, with a small contribution base relative to their unfunded vested benefits, which is the condition of many of the plans that are or will become eligible for SFA.

The prescribed interest assumptions must be used until the later of 10 years after the end of the plan year in which the plan receives payment of SFA or the last day of the plan year in which the plan no longer holds SFA or any earnings thereon in a segregated account. The minimum 10-year period for using these required assumptions is similar to the time period for the special withdrawal liability rules for benefit suspensions under MPRA.

PBGC determined that these are reasonable conditions because SFA does not result from employer contributions, and, without such conditions, the receipt of SFA could substantially reduce withdrawal liability owed by a withdrawing employer. That could cause more withdrawals in the near future than if the plan did not receive SFA, which would reduce plan income and be an additional burden for these plans. Congress specified in section 4262 of ERISA that SFA and earnings thereon may be used by a plan to make benefit payments and pay plan expenses. Payment of SFA was not intended to reduce withdrawal liability or to make it easier for employers to withdraw.

In addition, under § 4262.16(h) any settlement of withdrawal liability during the SFA coverage period must be made only with PBGC approval if the present value of the liability settled is greater than \$50 million (calculated as described under § 4262.16(h)(1)). Approval ensures that any negotiated settlements of material size are in the best interests of the participants in the plan, and do not create an unreasonable risk of loss to PBGC. The information required to be submitted for a request for approval of a proposed withdrawal liability settlement is under § 4262.16(h)(3).

#### (f) Reporting and Audit

In order to monitor compliance with the conditions imposed on plans that receive SFA, PBGC requires under § 4262.16(i) that plan sponsors file with PBGC each plan year, beginning with the plan year after the payment of SFA and through the last day of the last plan year ending in 2051, a statement of compliance with the terms and conditions of SFA. The statement must be filed with PBGC no later than 90 days

<sup>18</sup> PBGC intends to propose a separate rule of general applicability under section 4213(a) of ERISA to prescribe actuarial assumptions which may be used by a plan actuary in determining an employer's withdrawal liability.

after the end of the plan year and in accordance with the statement of compliance instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

PBGC may conduct periodic audits of plans that have received SFA to review compliance with the terms and conditions of the SFA program.

#### *Reinstatement of Benefits Previously Suspended*

Section 4262(k) of ERISA imposes two conditions on a plan that receives SFA and previously suspended benefits in accordance with sections 305(e)(9) or 4245(a) of ERISA. A plan must reinstate any benefits that were suspended and must provide payments to certain participants or beneficiaries to make up past amounts of benefits previously suspended.

As provided under section 4262(k) of ERISA,<sup>19</sup> § 4262.15 requires plans to reinstate these previously suspended benefits as of the month in which SFA is paid, and to provide make-up payments with respect to the previously suspended benefits, in accordance with guidance issued by the Treasury Department and the IRS. This guidance has been issued as Notice 2021-38. Section 4262(k) and § 4262.15 give the plan sponsor flexibility to design payment of make-up amounts as a single lump sum within 3 months of the payment date of SFA, or in equal monthly installments over a period of 5 years, commencing within 3 months of the payment date, with no installment payment adjusted for interest.

The plan sponsor of a plan with benefits that were suspended under section 305(e)(9) or 4245(a) of ERISA is required in § 4262.15(c) to furnish a notice of reinstatement to participants and beneficiaries whose benefits were previously suspended and then reinstated in accordance with section 4262(k) of ERISA. The requirements for the notice, including content requirements, are in notice of reinstatement instructions, in an addendum to the SFA application instructions, available on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

PBGC is providing for this notice of reinstatement so that participants and beneficiaries are adequately informed about the amount (and calculation) of

reinstatement and make-up payments, taking into account any restoration of benefits under 26 CFR 1.432(e)(9)-1(e)(3), and know when to expect the reinstatement and make-up payments. The notice also informs participants and beneficiaries how to contact the Department of Labor if they need assistance in understanding their rights under the reinstatement process. The Department has advised that if participants and beneficiaries better understand the benefits they will be receiving as a result of the plan receiving SFA, it will help the Department meet its obligations under section 4262(k) of ERISA to ensure that suspended benefits are reinstated and make-up payments made.

Section 4262(k) of ERISA states that "the Secretary, in coordination with the Secretary of the Treasury, shall ensure that an eligible multiemployer plan that receives special financial assistance" reinstates suspended benefits and provides make-up payments required by the statute. The Department of Labor notes that it will need access to, and if requested, copies of records to ensure that plans receiving SFA reinstate the suspended benefits of participants and beneficiaries as required by section 4262(k). Plan fiduciaries have an obligation under title I of ERISA to maintain complete and accurate records, including information the Department may need to ensure the timely reinstatement of suspended benefits and payment of make-up payments under section 4262(k) of ERISA. The Department has advised that a plan's failure to maintain adequate and complete records could result in violations of sections 107, 209, and 404 of ERISA. The Department is considering issuing guidance to address the records and information that plans receiving SFA will need to maintain and retain to comply with title I of ERISA.

#### *Other Provisions*

Section 4262 of ERISA contains other provisions that apply to SFA and plans receiving SFA. These provisions are enumerated under § 4262.17 of the regulation:

- SFA must not be capped by the guarantee under section 4022A of ERISA.
- A plan receiving SFA is required to continue to pay premiums due under section 4007 of ERISA for participants and beneficiaries in the plan.
- A plan that receives SFA is deemed to be in critical status within the meaning of section 305(b)(2) of ERISA until the last plan year ending in 2051.
- A plan that receives SFA and subsequently becomes insolvent under

section 4245 of ERISA will be subject to the rules and guarantee for insolvent plans in effect when the plan becomes insolvent.

- A plan that receives SFA is not eligible to apply for a suspension of benefits under section 305(e)(9) of ERISA.

Section 4262.17 also provides that a plan that receives SFA and meets the eligibility requirements for partition of the plan under section 4233(b) of ERISA may apply for partition under section 4233. One of those requirements, in section 4233(b)(2), provides that a multiemployer plan is eligible for partition if "the corporation determines, after consultation with the Participant and Plan Sponsor Advocate . . . , that the plan sponsor has taken (or is taking concurrently with an application for partition) all reasonable measures to avoid insolvency, including the maximum benefit suspensions under section 305(e)(9), if applicable[.]" Section 4262(m)(6) provides that a plan that receives SFA is not eligible to apply for a subsequent suspension of benefits under MPPRA. Therefore, for a plan that has received SFA, a suspension of benefits under section 305(e)(9) is not "applicable" within the meaning of section 4233(b)(2) and is not a reasonable measure available to the plan.

Finally, § 4262.17 includes a severability provision that provides that if any of the provisions of this interim final rule are found to be invalid or stayed pending further agency action, the remaining portions of the rule would remain operative.

#### **Compliance With Rulemaking Guidelines**

##### *Administrative Procedure Act*

The Administrative Procedure Act at 5 U.S.C. 553(b) provides that notice and comment requirements do not apply when an agency, for good cause, finds that they are impracticable, unnecessary, or contrary to the public interest. An exception is also provided at 5 U.S.C. 553(d)(3) to the requirement of a 30-day delay before the effective date of a rule "for good cause found and published with the rule." Section 9704 of the American Rescue Plan (ARP) Act of 2021 set up a "Special Financial Assistance Program for Financially Troubled Multiemployer Plans." PBGC is issuing this rule without advance notice and public comment as an interim final rule to allow for immediate implementation of this program.

Under new section 4262(c) of ERISA, PBGC is mandated to issue regulations or guidance setting forth the

<sup>19</sup> Section 4262(k) of ERISA contains rules that are parallel to section 432(k) of the Code. Under section 9704(d)(3) of ARP, the Secretary of the Treasury has interpretive jurisdiction over the rules for determining the benefit reinstatement and make-up payments that must be made by a multiemployer plan receiving SFA, for purposes of ERISA as well as the Code. Under section 4262(k), the Secretary of Labor, in coordination with Secretary of the Treasury, must ensure benefits are reinstated and previously suspended benefits paid.

requirements for eligible plans to apply for special financial assistance (SFA) within a short 120 days of the date of enactment of ARP (March 11, 2021). Moreover, PBGC must review applications within only 120 days of filing and plans must apply by the statutory cutoff date of December 31, 2025 (December 31, 2026, for revised applications). The compressed timeline for issuing rules, applying for assistance, and processing applications expresses a clear urgency to get appropriate assistance to eligible plans as quickly as possible.

Underscoring that urgency, Congress authorized PBGC to prioritize the filing of applications for eligible plans with the greatest need, but only during the first 2 years after March 11, 2021. Recognizing that need, PBGC in this interim final rule is prioritizing applications of plans, including soon-to-be insolvent plans and already insolvent plans that previously suspended benefits of participants and beneficiaries—benefits that must be reinstated and restored through make-up payments as a requirement of receiving SFA. Any delay of the effective date of the rule would be contrary to the financial interests of the participants and beneficiaries in these plans. If financial assistance is delayed and plans become insolvent, benefits for participants and beneficiaries will be reduced. For plans already insolvent with participant benefits that were already reduced, any delay will result in participants and beneficiaries having to wait longer to have their benefits reinstated and to receive their make-up payments.

Furthermore, the interim final rule imposes reasonable conditions on eligible plans that receive SFA, as permitted under section 4262(m)(1) of ERISA. PBGC finds good cause for making the conditions provided in the rule effective simultaneously with the application requirements. Plan sponsors need to know, before applying for SFA, what conditions will be imposed on the plan. The conditions may affect a plan sponsor's decision to apply for SFA or its determination of the amount of SFA. For example, the condition on withdrawal liability may affect the assumptions used to determine the amount of SFA in the plan's application. The conditions in the interim final rule are integral to the application requirements and decisions being made by plan sponsors, and, therefore, should be effective without delay.

Accordingly, because of the urgent need to get financial assistance to eligible plans as quickly as possible,

PBGC has determined that prior notice and comment through the issuance of a notice of proposed rulemaking is impracticable and that the public interest is best served by issuing this interim final rule. Further, prior notice and comment is impracticable within the challenging statutory deadline under which PBGC must issue regulations to set forth requirements for special financial assistance applications, and within the limited statutory timeframe (already begun) in which PBGC has to prioritize the filing of applications of plans with the most urgent need for assistance. However, PBGC is requesting comments at the time this interim final rule is issued and may include changes in a final rule in response to those comments. For the same reasons discussed earlier, pursuant to 5 U.S.C. 553(d)(3), PBGC is making this rule effective on July 12, 2021.

#### *Congressional Review Act*

Pursuant to Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (also known as the Congressional Review Act or CRA) (5 U.S.C. 801 *et seq.*), the Office of Management and Budget (OMB) has designated this interim final rule as a “major rule,” as defined by 5 U.S.C. 804(2)(a), which is a rule likely to result in an annual effect on the economy of \$100 million or more. Section 808(2) of the CRA provides that, notwithstanding the effective date of a major rule defined under section 801, any rule which an agency for good cause finds that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, shall take effect at such time as the Federal agency promulgating the rule determines. This good cause justification supports waiver of the 60-day delayed effective date for major rules under the CRA.

As discussed earlier, because of the urgent need for the SFA program, PBGC has determined that this interim final rule must take effect on the date of publication. This immediate effective date is necessary based on the mandate of section 4262(c) of ERISA to issue regulations or guidance setting forth the requirements for SFA applications within 120 days of the date of enactment of ARP. This short statutory deadline is to allow eligible plans, particularly plans that are close to insolvency or already insolvent, to begin applying for much needed financial assistance. Under the circumstances, PBGC has determined that prior notice and comment through the issuance of a notice of proposed rulemaking is impracticable and that the public interest is best served by making this

interim final rule effective on July 12, 2021. PBGC does not want to unduly delay providing financial assistance to plans.

#### **Regulatory Impact Analysis**

##### **(1) Relevant Executive Orders for Regulatory Impact Analysis**

Under Executive Order (E.O.) 12866, OMB reviews any regulation determined to be a “significant regulatory action.” Section 3(f) of E.O. 12866 defines a “significant regulatory action” as an action that is likely to result in a rule that: (1) Has an annual effect on the economy of \$100 million or more, or adversely affects in a material way a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local or tribal governments or communities (also referred to as economically significant); (2) creates serious inconsistency or otherwise interferes with an action taken or planned by another agency; (3) materially alters the budgetary impacts of entitlement grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or (4) raises novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

OMB has determined that this interim final rule is economically significant under section 3(f)(1) and has therefore reviewed this rule under E.O. 12866.

E.O. 13563 supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in E.O. 12866, emphasizing the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. It directs agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, and public health and safety effects, distributive impacts, and equity).

PBGC has provided an assessment of the potential benefits, costs, and transfers associated with this interim final rule.

##### **(2) Introduction and Need for Regulation**

As discussed earlier in the preamble, section 9704 of the American Rescue Plan (ARP) Act of 2021, “Special Financial Assistance Program for Financially Troubled Multiemployer Plans,” establishes a new section 4262 of ERISA. To implement section 4262, this interim final rule adds to PBGC's



regulations a new part 4262 (Special Financial Assistance by PBGC). It is through this program that PBGC will provide special financial assistance (SFA) to eligible multiemployer pension plans from a fund established by ARP<sup>20</sup> for SFA purposes and credited with transfers from the general fund of the Treasury Department.

Before the enactment of ARP on March 11, 2021, the Congressional Budget Office (CBO) projected the SFA program under section 4262 of ERISA to pay approximately \$86 billion in total assistance to on average (across model simulations) 185 plans.<sup>21</sup> PBGC has estimated the transfer amounts of the SFA program using ME-PIMS, PBGC's stochastic modeling tool, and projects the aggregate SFA to be approximately \$94 billion in assistance payments to more than 200 plans and \$150 million to PBGC to administer the SFA program. PBGC further estimates that plans that received financial assistance from PBGC under section 4261 of ERISA in the form of loans will repay PBGC in aggregate approximately \$200 million.

SFA is expected to assist plans covering more than 3 million participants, including by providing funds for make-up payments to restore previously suspended benefits that total approximately \$150 million for currently insolvent plans and approximately \$550 million for plans that have adopted approved benefit suspensions under MPRA. Based on the average of 500 stochastic model simulations, ME-PIMS projects that over 100 plans that would have otherwise become insolvent during the next 15 years will instead forestall insolvency as a direct result of receiving SFA.

Section 4262(m) of ERISA provides PBGC with specific regulatory authority (in consultation with the Secretary of the Treasury) to impose reasonable conditions on eligible multiemployer plans that receive SFA (see *Conditions for special financial assistance* earlier in the preamble). Absent the imposition of any conditions, there would be a potential for employers and plan sponsors to take actions that could impair the financial health of their plans and thereby jeopardize the retirement security of plan participants and PBGC's multiemployer insurance program. Examples include actions that will increase plan obligations, such as amendments to increase benefit levels,

or actions that could reduce future plan income, such as reductions to contribution rates or employer withdrawals. Each of these actions has the potential to accelerate plan insolvencies, which would bring about participant benefit cuts and increased future claims to PBGC's multiemployer insurance program that may impair PBGC's ability to pay financial assistance under section 4261.

### (3) Regulatory Action

PBGC strives to implement the SFA program established under this interim final rule in a manner that is consistent with the following key objectives: (1) To transfer to a plan the amount required under section 4262 of ERISA as soon as practicable; (2) to prioritize the applications of plans in imminent need of financial support and where participants' suspended benefits are to be restored; (3) to establish an efficient system for processing applications; and (4) to ensure prudent stewardship of taxpayer-funded appropriations for SFA, including the prevention of waste, fraud, and abuse in the SFA program.

Section 4262(m) of ERISA gives PBGC authority, in consultation with the Secretary of the Treasury, to impose reasonable conditions on an eligible multiemployer plan that receives SFA relating to increases in future accrual rates and any retroactive benefit improvements, allocation of plan assets, reductions in employer contribution rates, the allocation of contributions and other practices, and withdrawal liability. In determining what conditions to impose, in consultation with the Treasury Department, PBGC evaluated the regulatory alternatives under section 4262(m) to set conditions based on the following objectives: (1) Meeting the goals of ARP in providing for the SFA program; (2) stewardship of taxpayer-funded appropriations for SFA; (3) maintaining the security of the accrued pension benefits (current and future accruals) of participants in plans that receive SFA; and (4) preservation of the solvency of the PBGC multiemployer insurance program.

The regulatory action and related economic considerations for each condition are described as follows.

#### Conditions Related to Future Benefit Accruals

The interim final rule provides that, during the SFA coverage period (beginning on the plan's SFA measurement date through the last day of the last plan year ending in 2051), plans that receive SFA can only accept a collective bargaining agreement (CBA) that increases future benefit accruals

unless the plan actuary certifies that employer contribution increases projected to be sufficient to pay for the benefit increase have been adopted or agreed to, and provided that such increased contributions were not included in the determination of SFA.

Plans in critical status are already subject to constraints on increasing future benefit accrual levels. Under section 305(f)(1) of ERISA, they must be able to fund any benefit improvements using contributions that are not already contemplated within their rehabilitation plans.

The interim final rule similarly would prohibit plans from implementing significant benefit increases that likely could accelerate insolvencies after receiving taxpayer-funded assistance. However, it is evident that attracting and retaining active members to these financially troubled plans is critical to ensuring that the plans retain contribution income levels sufficient to sustain plan assets. Accordingly, the interim final rule allows plans to provide benefit increases when these increases can be paid for by additional employer contributions. The condition also does not apply to the required reinstatement of benefits suspended under section 305(e)(9) or 4245(a) of ERISA or to any restoration of benefits under 26 CFR 1.432(e)(9)-1(e)(3).

#### Conditions Related to Retroactive Benefit Improvements

The interim final rule provides that, during the SFA coverage period, plans that receive SFA are strictly prohibited from adopting an amendment to provide any retroactive benefit improvements. Unlike increases to the level of future accruals, which incentivize active members to participate in the plan and can thereby improve the expected contribution income, increases to retroactive benefit levels harm the funded position of the plan without improving expected future plan income.

#### Conditions Related to Allocation of Plan Assets

The interim final rule provides that, during the SFA coverage period, plans must hold a sufficient portion of total plan assets, which includes all segregated accounts (including SFA), in permissible investments (described in § 4262.14) to meet expected plan benefit payments and administrative expenses for at least 1 year (or until the date the plan is projected to become insolvent, if earlier). This requirement is in addition to the restrictions on investments under § 4262.14. For plans with a large proportion of plan assets as SFA, this additional condition is not likely to

<sup>20</sup> Specifically, section 9704 of ARP establishes an eighth fund under section 4005 of ERISA.

<sup>21</sup> Congressional Budget Office Cost Estimate, February 17, 2021, <https://www.cbo.gov/system/files/2021-02/hwaysandmeansreconciliation.pdf>.

result in any additional restrictions on asset allocation until the plan's SFA account is depleted.

The interim final rule provides plans that receive SFA with the opportunity to invest in a portfolio that can benefit from risk and illiquidity premiums over the long-term investment horizon. This flexibility to invest in other assets is likely to extend the solvency of these plans, and the limit on that flexibility will only constrain plans that would otherwise accept an inappropriate level of risk after receiving taxpayer assistance.

*Conditions Related to Reductions in Employer Contribution Rates*

The interim final rule provides that, during the SFA coverage period, the contributions required for each CBU must not be less than, and the definition of the CBUs used must not be different from, those set forth in the CBA or plan documents (including agreed to contribution increases to the end of the collective bargaining agreements) in effect on March 11, 2021. However, an exception is provided where a plan sponsor determines that the risk of loss to plan participants and beneficiaries is lessened by the reduction. Where the reduction affects annual contributions over \$10 million and over 10 percent of all employer contributions, the plan sponsor must request approval from PBGC, which must also determine that the change lessens the risk of loss to participants and beneficiaries. Plans in critical status are already subject to constraints on reducing future contribution rates and must abide by the terms of their rehabilitation plans. The interim final rule is intended to broadly prevent reductions in contribution rates that may accelerate the future insolvencies of plans, while still providing very limited flexibility for employers with extenuating financial circumstances.

*Conditions Related to the Allocation of Contributions and Other Practices*

Under the interim final rule, during the SFA coverage period, a decrease in the proportion of income (contributions,

investment returns, etc.) or an increase in the proportion of expenses allocated to a plan that receives SFA is prohibited. This prohibition applies to written or oral agreements or practices (other than a written agreement in existence on March 11, 2021, to the extent not subsequently amended or modified) under which income or expenses are divided or to be divided between a plan that receives SFA and one or more other employee benefit plans. However, the prohibition does not apply to a good faith allocation of contributions pursuant to a reciprocity agreement. (If the principal purpose of entering into, amending, or modifying a reciprocity agreement after March 11, 2021, is to circumvent this condition, any allocation made pursuant to such reciprocity agreement will not be considered as made in good faith.) The prohibition also does not apply to a good faith allocation of contributions where the contributions to a plan that receives SFA required for each base unit are not reduced (except if the reduction is approved by PBGC). It also does not apply to a good faith allocation of the costs of securing shared space, goods, or services, where such allocation does not constitute a prohibited transaction under ERISA or is otherwise exempt from the prohibited transaction provisions pursuant to section 408(b)(2), 408(c)(2), or 408(a) of ERISA, or of the actual cost of services provided to the plan by an unrelated third party.

This condition is to ensure that plans do not inappropriately reallocate contributions away from the plan to other benefit programs or inappropriately reallocate expenses from other benefit programs to the plan.

In addition, during the SFA coverage period, a plan receiving SFA must not engage in a transfer of assets or liabilities (including a spinoff) or merger except with PBGC's approval. PBGC will approve a proposed transfer or merger if: (1) The transaction complies with section 4231(a)–(d), (2) the transfer or merger, or the larger transaction of which the transfer or merger is a part, does not unreasonably increase PBGC's

risk of loss respecting any plan involved in the transaction and (3) the transfer or merger is not reasonably expected to be adverse to the overall interests of the participants and beneficiaries of any of the plans involved in the transaction.

This condition is to ensure that plans that receive taxpayer-funded assistance do not subsequently engage in transactions that may allocate contributions away from the plan in a manner that is projected to accelerate insolvency.

*Conditions Related to Withdrawal Liability*

Under the interim final rule, a plan must use the interest assumptions under § 4281.13(a) to determine withdrawal liability beginning for withdrawals after the plan year in which the plan receives SFA. This condition continues to apply until the later of 10 years after the end of the plan year in which the plan receives payment of SFA or the last day of the plan year in which the segregated SFA asset account is fully depleted.

The interim final rule also provides that, during the SFA coverage period, plans that receive SFA cannot enter into a negotiated settlement agreement with a withdrawing employer that is in excess of \$50 million without first obtaining approval from PBGC. It is important to ensure that any negotiated settlements of material size are not projected to be harmful to participants in the plan or harmful to PBGC's multiemployer insurance program.

The interim final rule would prevent the payment of SFA from resulting in decreases in withdrawal liability assessments and thereby reduce the incentive for employers to withdraw from these plans. The purpose of SFA is to help plans pay for benefits and plan expenses and not to indirectly subsidize employers to exit these plans.

**(4) Estimated Impact of Regulatory Action**

The following table summarizes the estimated transfers and costs expected as a result of implementation of the SFA program.

	PV amount (3% rate)	PV amount (7% rate)	2021	2022	2023	2024	2025	2026	2027–2051 (Total) <sup>22</sup>
<b>Annual Transfer Amounts</b>									
SFA payments to plans (total nominal value of \$94.2 billion).	\$86.35 billion.	\$77.33 billion.	\$1.46 billion	\$43.68 billion.	\$23.03 billion.	\$13.32 billion.	\$8.89 billion	\$3.33 billion	\$0.47 billion.

<sup>22</sup> SFA payments to plans are expected to be \$474 million in 2027 and \$0 thereafter. PBGC administrative expenses are expected to be \$14 million per year from 2027 through 2029 and \$10.5

million in 2030. Additional PBGC expenses are expected to be incurred from 2031 through 2051, but would not be funded through general appropriations. Annual compliance filings are

expected to be \$726,800 per year from 2027 through 2051. Condition exemption filings are expected to be \$19,600 per year from 2027 through 2051.

	PV amount (3% rate)	PV amount (7% rate)	2021	2022	2023	2024	2025	2026	2027–2051 (Total) <sup>22</sup>
Financial assistance loan repayment to PBGC (total nominal value of \$200 million).	(\$194.17) million.	(\$186.92) million.	(\$200.00) million.	\$0 .....	\$0 .....	\$0 .....	\$0 .....	\$0 .....	\$0.
Total transfer amounts (total nominal value of \$94.0 billion).	\$86.16 billion.	\$77.14 billion.	\$1.26 billion	\$43.68 billion.	\$23.03 billion.	\$13.32 billion.	\$8.89 billion	\$3.33 billion	\$0.47 billion.

**Annual Cost Amounts**

PBGC administrative expenses (total nominal value of \$150 million).	\$129.57 million.	\$108.41 million.	\$20.50 million.	\$17.50 million.	\$15.75 million.	\$15.00 million.	\$14.75 million.	\$14.00 million.	\$52.50 million.
SFA applications .....	\$8,091,600	\$7,232,400	\$1,199,300	\$2,121,800	\$2,183,300	\$1,998,800	\$1,260,800	\$78,800 .....	\$0.
Benefit reinstatement participant notices.	\$69,900 .....	\$66,000 .....	\$34,400 .....	\$38,700 .....	\$0 .....	\$0 .....	\$0 .....	\$0 .....	\$0.
Annual compliance filings	\$12,495,000	\$7,231,200	\$0 .....	\$99,500 .....	\$275,400 .....	\$456,500 .....	\$622,200 .....	\$726,800 .....	\$18,168,750.
Condition exemption filings	\$354,000 .....	\$209,900 .....	\$0 .....	\$0 .....	\$19,600 .....	\$19,600 .....	\$19,600 .....	\$19,600 .....	\$489,250.
Total cost amounts .....	\$150.58 million.	\$123.15 million.	\$21.73 million.	\$19.76 million.	\$18.23 million.	\$17.47 million.	\$16.65 million.	\$14.83 million.	\$71.16 million.

**Filing and Issuance Requirements**

As discussed in this interim final rule, to request SFA for a multiemployer plan, a plan sponsor must, under section 4262 of ERISA and part 4262, file an application with PBGC. The applications for SFA must include information about the plan, plan documentation, and actuarial information. The information is necessary for PBGC to verify a plan’s eligibility for SFA, amount of requested SFA, and if applicable, inclusion in a priority group. In addition, under part 4262, a plan that has received SFA is required to file a compliance notice with PBGC once every year until 2051. As discussed further in the *Paperwork Reduction Act* section, the estimated average cost (dollar equivalent of the in-house hour burden + contractor costs) to prepare the one-time application to PBGC is \$30,750, and the estimated average cost to prepare the annual statement of compliance is \$2,550. PBGC estimates that over the next 3 years (2021–2023) it will receive annually an average of 60 applications for SFA at an aggregate average annual cost of \$1,845,000 and 49 annual statements of compliance at an aggregate average annual cost of \$124,950.

In addition, certain plan sponsors that receive SFA are subject to participant disclosure and reporting requirements. A plan sponsor of a plan with benefits that were suspended under sections

305(e)(9) or 4245(a) of ERISA must issue a notice of reinstatement to participants and beneficiaries whose benefits were previously suspended and then reinstated. PBGC estimates that over the next 3 years (2021–2023) an average of 11.33 plans annually (34 total plans) will issue the notice of reinstatement to an average of 3,050 participants and beneficiaries at an aggregate average annual cost of \$24,367.

A plan sponsor that receives SFA also is required to administer the plan in accordance with conditions prescribed by PBGC in § 4262.16. A plan sponsor may request approval from PBGC for an exception under certain circumstances for conditions relating to reductions in contributions, transfers or mergers, and settlement of withdrawal liability. PBGC expects these determination requests to be infrequent. PBGC estimates that it will receive an average of 2.2 requests per year beginning in 2023 at a cost of \$19,570 per year (averaged over 2021–2023 = \$6,523).

Over the next 3 years (2021–2023), the total average annual cost for the information collection is \$2,000,840 (\$1,845,000 + \$124,950 + \$24,367 + \$6,523).

**Conditions for Plans That Receive SFA**

The following table provides estimated financial impacts under a benchmark scenario analysis for each of the 6 areas for conditions listed under

section 4262(m)(1) of ERISA. The estimated results were produced by ME–PIMS, PBGC’s stochastic modeling tool used to project the future solvency and potential financial assistance under section 4261 for each plan in the U.S. multiemployer pension plan system.<sup>23</sup> The level of complexity and the lack of availability of complete plan-level data needed to program the specifications under the range of alternative regulatory actions under section 4262(m) are barriers to producing precise financial estimates for each potential action. Instead, PBGC conducted a single benchmark scenario for each regulatory condition that illustrates the order-of-magnitude financial impact.

The baseline assumptions represent PBGC’s best-estimate assumptions for determining the aggregate amounts of SFA under section 4262 of ERISA and financial assistance under section 4261 based on employer and plan behavior that remains consistent before and following the distribution of SFA. The benchmark scenario assumptions represent a single scenario that was used to estimate each alternative regulatory action that was considered.

<sup>23</sup> The following web page on PBGC’s website provides more detailed information about PBGC’s Multiemployer Program Pension Insurance Modeling System (ME–PIMS): <https://www.pbpc.gov/about/projections-report/pension-insurance-modeling-system>.

Regulatory condition	Baseline assumption	Benchmark scenario assumption	Estimated benchmark impact *	Comments
Future Benefit Accruals.	No assumed accrual increases	An immediate 10% increase in future accruals followed by annual increases based on assumed wage index increases (no corresponding contribution rate increases).	\$5 billion to \$8 billion in section 4261 Financial Assistance (estimated through 2070).	Plans are already constrained on increasing accrual levels based on rehabilitation plan requirements. The estimated impact is primarily due to accelerated plan insolvencies. Most increases to benefit accrual rates would not be covered under PBGC guaranteed benefit limits.
Retroactive Benefit Accruals.	No assumed accrual increases	A one-time 10% increase in retroactive accrued benefits for all active participants increases (no corresponding contribution rate increases).	\$7 billion to \$10 billion in section 4261 Financial Assistance (estimated through 2070).	Plans are already constrained on increasing benefit levels based on rehabilitation plan requirements. The estimated impact is primarily due to accelerated plan insolvencies. Most increases to accrued benefits would not be covered under PBGC guaranteed benefit limits.
Allocation of Plan Assets.	Baseline stochastic returns under ME-PIMS model, without restrictions on asset allocation.	All plans that receive SFA utilize an LDI strategy to match assets to benefit payments.	\$5 billion to \$15 billion in section 4261 Financial Assistance (estimated through 2070).	Plans required to invest all available plan assets in high quality fixed income securities are expected to attain lower investment returns, which accelerates plan insolvencies.
Reduction in Contribution Rates.	Level contribution rates (no assumed decreases).	A one-time 20% decrease in the per-capita contribution rate increases (no corresponding reduction in future accruals).	\$20 billion to \$40 billion in section 4261 Financial Assistance (estimated through 2070).	The estimated impact includes the acceleration of projected plan insolvencies resulting from reduced contribution levels, as well as lower contribution and withdrawal liability income following insolvency used to partially offset benefit payments.
Allocation of Contributions and Other Practices.	No assumed reallocation of contributions to other plans. CBUs projected with annual 1.3% decline.	A one-time immediate decline to CBUs of 20%, followed by annual 1.3% declines (includes corresponding reduction in future accruals).	\$10 billion to \$25 billion in section 4261 Financial Assistance (estimated through 2070).	Reallocation of contributions to other plans could take the form of plan transactions such as spinoffs or liability transfers, which are not explicitly modeled.
Withdrawal Liability ....	No assumed future employer withdrawals explicitly factored into modeling.	Employers representing 35% of active members withdraw immediately after receiving SFA.	\$15 billion to \$20 billion in section 4262 SFA.	Plans are assumed to project the increased level of employer withdrawals as part of assumption setting for SFA determination purposes.

\* The estimated impacts that increase the \$94 billion of SFA amounts under section 4262 of ERISA occur from 2021 through 2027. The estimated impacts for all "Section 4261 Financial Assistance" represent the aggregate nominal amount of this assistance provided through 2070. "Section 4261 Financial Assistance" is the multiemployer insurance program financial assistance PBGC provides in periodic payments upon plan insolvency under section 4261 of ERISA, which is limited to PBGC guarantee amounts.

## (5) Regulatory Alternatives Considered

### Conditions Related to Future Benefit Accruals

PBGC first considered the implications of foregoing any regulatory authority provided under section 4262(m) of ERISA to impose reasonable conditions related to future benefit accruals. The primary factor in support of the option to not regulate is that additional constraints on benefit improvements may be unnecessary and may be considered onerous. Plans that receive SFA will be deemed to be in critical status through the plan year ending in 2051 and will be subject to the terms of their applicable rehabilitation plan. A rehabilitation plan generally restricts a plan from increasing benefits unless the plan is able to provide additional contribution income that is not already contemplated with the rehabilitation plan.

Although this may be applicable for many plans, there may be additional benefits to imposing a secondary restriction on benefit increases as permitted under section 4262(m) of

ERISA. A secondary condition may eliminate some existing flexibility but could prevent plans from adopting benefit improvements that prove ultimately to be unaffordable for the plan. If a plan that receives SFA were able to subsequently implement significant increases to the future accrual rate, it would likely accelerate the plan's insolvency date which would jeopardize participant benefits and impose financial strain on PBGC's multiemployer insurance program.

PBGC estimates that a one-time 10 percent increase in the future accrual rate accompanied by annual increases based on the national average wage index, for all active participants, could increase the aggregate nominal amount of future financial assistance under section 4261 of ERISA by approximately \$5 billion to \$8 billion. Absent regulatory action, it is unknown the extent to which employers can and would increase future accrual rates. PBGC would generally expect the financial impact to be less than this estimated range due to the existing rehabilitation plan constraints, but the

true impact is unknown and subject to a great deal of uncertainty.

Another regulatory alternative was considered under which PBGC would limit levels of future increases based on wage indexation. This alternative would allow plans with limited flexibility to adopt increases but would prevent significant improvements that may prove unaffordable. PBGC considered that certain eligible plans may have recently imposed substantial reductions in the accrual level to forestall insolvency, such that the current level of accruals are not sufficient to retain active members. Although this alternative would have helped to limit the financial impact below the \$5 billion to \$8 billion range modeled in the sensitivity scenario, it was determined to be too restrictive.

Yet another regulatory alternative was considered under which PBGC would strictly prohibit any increases in future benefit accruals until 2051. Under this approach, the value of plan accrual rates could erode significantly due to inflation. As the benefits lose value, it would likely become increasingly

difficult for plans to retain their active members. Plans could suffer irreparable harm to the contribution base as a result, which would likely guarantee that plans would go insolvent. As a result, PBGC determined that this regulatory alternative would harm plan participants and the multiemployer insurance program.

#### *Conditions Related to Retroactive Benefit Improvements*

PBGC first considered the implication of foregoing any regulatory authority provided under section 4262(m) of ERISA to impose reasonable conditions related to retroactive benefit improvements. The primary support for not regulating is that additional constraints on benefit improvements may be unnecessary and may be considered onerous. Plans that receive SFA are deemed to be in critical status through the plan year ending in 2051 and will be subject to the terms of their applicable rehabilitation plan. A rehabilitation plan generally restricts a plan from increasing benefits unless the plan is able to provide additional contribution income that is not already contemplated with the rehabilitation plan.

However, as with the advantages of a condition on future benefit accruals discussed earlier, a secondary condition on retroactive benefit increases could prevent plans from adopting benefit improvements that ultimately prove to be unaffordable for the plan. PBGC estimates that a one-time 10 percent increase in retroactive accrued benefits for all active participants could increase the aggregate nominal amount of future financial assistance under section 4261 by approximately \$7 billion to \$10 billion. Absent regulatory action, the extent to which employers can and would increase retroactive benefits is unknown. PBGC would generally expect the financial impact to be less than this estimated range due to existing rehabilitation plan constraints, but the true impact is unknown and subject to a great deal of uncertainty.

Another regulatory alternative considered would allow for retroactive benefit improvements, subject to rehabilitation plan constraints, but only up to a specified limit. The alternative would provide plans with limited flexibility to increase benefits, but also prevent excessive improvements that would impair a plan's financial position. Yet another alternative would be to limit the amount of retroactive benefit increases to a restoration of accrued benefits to levels available before reductions applied pursuant to rehabilitation plan requirements in

recent years. The benefit of this approach would be to improve potentially the retirement security of active plan participants, who have experienced the disproportionate impact of benefit reductions. However, increases to future accrual rates more effectively bolster the future engagement of active participants than retroactive benefit improvements. By prohibiting all retroactive benefit improvements, plans will remain on a more favorable financial path and any surplus income would be better utilized by improving future accruals to help attract and retain active members.

#### *Conditions Related to Allocation of Plan Assets*

PBGC first considered the implications of foregoing any regulatory authority provided under section 4262(m) of ERISA to impose reasonable conditions related to asset allocation. There were two primary factors in support of this approach. First, section 4262(j) already restricts the investment of SFA to investment-grade bonds and other investments as permitted by PBGC. This condition alone serves as a significant constraint on a plan's ability to pursue higher returns in risk-seeking assets, particularly for plans that had previously been insolvent or close to insolvency and received an amount of SFA that is large in proportion to the amount of existing plan assets. Second, imposing conditions that severely restrict the level of return-seeking assets may impair a plan's ability to achieve greater investment returns and forestall insolvency. Although a higher proportion of return-seeking assets exposes plans to greater losses in the event of adverse market conditions, the long-term investment horizon affords plans the risk capacity to recoup these losses.

The primary risk to foregoing any regulatory action to impose conditions on asset allocation is the potential for a scenario under which plans that receive SFA invest heavily in highly risky, speculative assets and the market experiences a severe, prolonged downturn. Plans may choose to pay all benefits and administrative expenses from the SFA account before exhausting any existing plan assets. Following the depletion of SFA, plans would then experience no constraints on their asset allocation and could seek to invest in highly risky assets. Although the long-term investment horizon does afford plans with time to recoup losses, a severe and prolonged downturn could cause irreparable harm to the plan's financial position. PBGC is unable to measure a precise financial impact for

foregoing any regulatory condition with respect to asset allocation. However, under most economic scenarios, PBGC expects a more favorable outcome both to plan solvencies and future PBGC program outlays by imposing less restrictive conditions related to asset allocation, such as the condition in the interim final rule.

A separate regulatory alternative was considered under which PBGC would require all plan assets to be invested in accordance with the restrictions for SFA under section 4262(j) of ERISA (*i.e.*, investment-grade bonds or other investments as permitted by PBGC). This condition would effectively require plans to pursue a liability-driven investment strategy under which fixed income assets are matched to expected benefit payments to immunize the portfolio from risk. This condition would be highly restrictive on a plan's ability to select plan assets. It would mitigate year-to-year volatility in plan funded status and would severely restrict a plan's attainable investment returns and thus potentially accelerate the insolvency of the plan. Because available fixed income yields are expected to be lower than the interest rate limit defined under section 4262(e)(3), plans would generally become insolvent before the 2051 plan year. Based on modeling using ME-PIMS, PBGC estimates that this regulatory alternative could increase future financial assistance payments under section 4261 by \$5 billion to \$15 billion over the next four decades. Due to the increased financial impact of this option and the adverse impact to plan participants resulting from accelerated plan insolvencies, PBGC did not choose to pursue this alternative.

#### *Conditions Related to Reductions in Employer Contribution Rates*

PBGC first considered the implications of foregoing any regulatory authority provided under section 4262(m) of ERISA to impose reasonable conditions related to reductions in employer contribution rates. The primary benefit of this option is that it could provide plans with flexibility to reduce contribution rates if it is expected to attract or retain employers in the plan. Any mechanism that allows plans to bolster their active membership could help to improve their funded status through increased contribution levels. A plan's authority to allow for reduced contribution rates during the collective bargaining process is already constrained by the terms of their rehabilitation plan, which is mandated for plans certified in critical status. However, if plans are able to allow for

reductions in employer contribution rates, the contribution income into the plan may decrease if the reduced rates do not effectively increase plan participation. Plans may view SFA as a windfall that will allow for contribution rate relief that benefits employers at the expense of the plan's financial health. Although the financial impact is likely to be significantly less than the \$23 billion to \$36 billion range estimated under the ME-PIMS benchmark scenario for a 20 percent universal reduction in assumed contribution rates (primarily due to the aforementioned rehabilitation plan constraints), PBGC expects there to be a material (albeit unknown) impact.

A separate regulatory alternative was considered under which PBGC would strictly prohibit plans from accepting any collective bargaining agreement under which there was a reduction in the contribution rate. This alternative is similar to the provision in the interim final rule but does not allow for any exceptions to the prohibition. PBGC recognizes that employers that are on the brink of insolvency may be able to avoid bankruptcy by reducing the contribution rate to the pension plan. Although this exception reduces short term contribution income to the plan, it may increase long-term contribution levels by enabling the contributing employer to stay solvent and have the resources available to contribute to the plan.

#### *Conditions Related to the Allocation of Contributions and Other Practices*

PBGC considered the implications of foregoing any regulatory action under section 4262(m) of ERISA to impose reasonable conditions related to the allocation of contributions and other practices. The primary benefit of this option is that the bargaining parties would retain full discretion over how to allocate contributions to benefit programs that align with their desired preferences. Regulatory action by PBGC could be considered onerous.

However, PBGC recognizes that absent any regulations the bargaining parties could take actions that allocate contributions away from the pension plan and allow it to fail and become covered under PBGC's insurance program. PBGC used ME-PIMS to estimate the financial impact of a 25 percent one-time reduction in CBUs for all plans that receive SFA. This would reflect the efforts that may be made by some plans to shift hours away from the plan to increase contribution allocations to other programs. The 25 percent reduction percentage was set as an average to reflect that some bargaining

parties may not allocate any contributions away from the plan whereas other bargaining parties may allocate a substantive portion of contributions away from the plan. Under this benchmark scenario, financial assistance under section 4261 of ERISA would increase by approximately \$10 billion to \$25 billion over the following decades. However, the extent to which bargaining parties would engage in these types of strategies is highly uncertain.

#### *Conditions Related to Withdrawal Liability*

PBGC first considered the implications of foregoing any regulatory authority provided under section 4262(m) of ERISA to impose reasonable conditions related to withdrawal liability. Absent any conditions, plans may anticipate a potential surge of employer withdrawal upon receipt of the SFA. Plans would account for this anticipated outcome by requesting a greater amount of SFA in their applications to PBGC (plans would do so by setting the actuarial assumptions accordingly). The extent to which the aggregate amount of SFA provided under section 4262 is impacted is unknown, but PBGC estimates that it could range from 10% to 30%. The greater the amount of SFA that is provided to plans, the greater the reduction in the employers' unfunded vested benefit obligations and therefore the greater the incentive for employers to withdraw from the plans. This outcome could materially increase the amounts of SFA provided under section 4262.

A separate regulatory alternative was considered under which PBGC would mandate that, during the SFA coverage period, SFA assets are disregarded in the determination of unfunded vested benefits for the assessment of withdrawal liability. This alternative would prevent a decrease in the value of employer unfunded benefit obligations due to receipt of SFA and thereby block an incentive from arising that may cause employers to withdraw from these plans. This would mitigate against a change in plan assumptions for increased employer withdrawals within the application for SFA that would in turn increase the aggregate transfers of SFA across all plans under section 4262. This alternative was determined to be more administratively complex and therefore less desirable.

#### *Regulatory Flexibility Act*

Because PBGC is not publishing a general notice of proposed rulemaking under 5 U.S.C. 553(b), the regulatory

flexibility analysis requirements of the Regulatory Flexibility Act do not apply. See 5 U.S.C. 601(2).

#### *Paperwork Reduction Act*

This interim final rule contains a collection of information that PBGC has submitted to the Office of Management and Budget (OMB) for review and approval under the Paperwork Reduction Act. OMB's decision regarding this information collection request will be available at <http://www.Reginfo.gov>. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

PBGC estimates that over the next 3 years an annual average of 60 plan sponsors will file applications for SFA (39 in 2021, 69 in 2022, and 71 in 2023). PBGC needs the information in the application to review a plan's eligibility for SFA, priority group status, and amount of requested SFA, and to make payment of SFA. PBGC estimates that each application requires \$30,000 in contractor cost and 10 hours of in-house fund time. Thus, the application imposes estimated annual burdens of \$1,800,000 (60 × \$30,000) and 600 (60 × 10) hours.

PBGC estimates that over the next 3 years an annual average of 49 plan sponsors will file Annual Statements of Compliance (0 in 2021, 39 in 2022, and 108 in 2023). PBGC needs the information in this statement to ensure that a plan is compliant with the conditions imposed upon its receiving SFA. PBGC estimates that each Annual Statement of Compliance requires \$2,400 in contractor cost and 2 hours of in-house fund time. The Annual Statement of Compliance imposes estimated annual burdens of \$117,600 (49 × \$2,400) and 98 (49 × 2) hours.

Over the next 3 years an average of 11.33 plans per year (16 plans in 2021, 18 plans in 2022, and 0 in 2023) will be required to send notices to participants with suspended benefits. This notice is intended to ensure participants understand the calculation and dates of their reinstated benefits and, if applicable, make-up payments. PBGC estimates that the burden for each plan to prepare required notices is \$2,000 in contractor cost and 2 hours of in-house fund time. Thus, these notices impose estimated annual burdens of \$22,667 (11.33 × \$2,000) and 22.66 (11.33 × 2) hours. PBGC is considering issuing a model notice and hereby solicits public comment on whether a model notice would be helpful.

Also, PBGC estimates that beginning in 2023, PBGC will receive an average

of 2.2 requests per year (averaged over 2021–2023 = 0.73 per year) for determinations concerning a transfer of assets or liabilities (including a spinoff) or merger (1 per year); a withdrawal liability settlement greater than \$50 million (1 per year); or a contribution decrease (.2 (1 every 5 years)) (0 plans in 2021, 0 plans in 2022, and 2.2 plans in 2023). PBGC needs the information requested to make a determination on the proposed transaction, withdrawal liability settlement, or contribution decrease. PBGC estimates an average annual hour burden (employer and fund office hours) and average annual cost burden (contractor costs) per request of:

- 1.6 hours (8 hours × .2) and \$5,000 (\$25,000 × .2) for a proposed contribution change;

- 4 hours and \$12,000 for a proposed transfer or merger; and
- 2 hours and \$2,000 for a proposed settlement of withdrawal liability.

PBGC estimates that, beginning in 2023, for 2.2 determination requests, the aggregated average annual hour burden will be 7.6 hours (1.6+4+2 employer and fund office hours) and the aggregated average annual cost burden will be \$19,000 (\$5,000 + \$12,000 + \$2,000 in contractor costs). For 2021–2023, PBGC estimates an average annual hour burden of 2.53 hours (7.6/3) and average annual cost burden of \$6,333 (\$19,000/3).

The estimated aggregate average annual hour burden for 2021–2023 for the information collection in part 4262 is 723.20 hours (600 + 98 + 22.67 +

2.53), which means a cost equivalent of \$54,240 assuming a blended hourly rate of \$75 for employer and fund office administrative, clerical, and supervisory time. The estimated aggregate average annual cost burden for 2021–2023 for the information collection in part 4262 is \$1,946,600 (\$1,800,000 + \$117,600 + \$22,667 + \$6,333), which means approximately 4,867 contract hours assuming an average hourly rate of \$400 for work done by outside actuaries and attorneys. The actual hour burden and cost burden per plan will vary depending on plan size and other factors.

The estimated average annual burden figures for 2021–2023 are shown in the following chart.

Average number of respondents p/year	Hour burden hours	Hour burden—equivalent cost	Cost burden
Applications for SFA: 60 .....	600	\$45,000	\$1,800,000
Annual compliance statements: 49 .....	98	7,350	117,600
Notice of reinstatement: 11.33 .....	22.67	1,700	22,667
Requests for determination: 1 (0.73) .....	2.53	190	6,333
<b>Totals: 121 .....</b>	<b>723.20</b>	<b>54,240</b>	<b>1,946,600</b>

Plan sponsors of multiemployer plans applying for SFA are required to file an application with PBGC with the required information under part 4262. For payment of SFA, they are required to include with an application for SFA, common form SF 3881, ACH Vendor/Miscellaneous Payment Enrollment, OMB control no. 1530–0069.

Written comments and recommendations for the information requirements under this interim final rule should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation through [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular information collection by selecting “Currently under Review—Open for Public Comments” or by using the search function. To be assured of consideration, comments must be submitted by August 11, 2021.

PBGC is soliciting public comments to—

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

**List of Subjects**

*29 CFR Part 4000*

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

*29 CFR Part 4262*

Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements.

For the reasons given above, PBGC is amending 29 CFR chapter XL as follows:

**PART 4000—FILING, ISSUANCE, COMPUTATION OF TIME, AND RECORD RETENTION**

■ 1. The authority citation for part 4000 continues to read as follows:

**Authority:** 29 U.S.C. 1083(k), 1302(b)(3).

**§ 4000.3 [Amended]**

- 2. In § 4000.3, amend paragraph (b)(4) by adding “4262,” after “4245.”
- 3. Add part 4262 to read as follows:

**PART 4262—SPECIAL FINANCIAL ASSISTANCE BY PBGC**

Sec.

- 4262.1 Purpose.
- 4262.2 Definitions.
- 4262.3 Eligibility for special financial assistance.
- 4262.4 Amount of special financial assistance.
- 4262.5 PBGC review of plan assumptions.
- 4262.6 Information to be filed.
- 4262.7 Plan information.
- 4262.8 Actuarial and financial information.
- 4262.9 Application for a plan with a partition.
- 4262.10 Processing applications.
- 4262.11 PBGC action on applications.
- 4262.12 Payment of special financial assistance.
- 4262.13 Restrictions on special financial assistance.
- 4262.14 Permissible investments of special financial assistance.
- 4262.15 Reinstatement of benefits previously suspended.
- 4262.16 Conditions for special financial assistance.
- 4262.17 Other provisions.

**Authority:** 29 U.S.C. 1302(b)(3), 1432.

**§ 4262.1 Purpose.**

The purpose of this part is to prescribe rules governing applications for special financial assistance under section 4262 of ERISA and related requirements.

**§ 4262.2 Definitions.**

The following terms are defined in § 4001.2 of this chapter: Code, ERISA, fair market value, IRS, multiemployer plan, PBGC, plan, and plan sponsor. In addition, for purposes of this part:

*Form 5500* means the Annual Return/Report of Employee Benefit Plan required to be filed for employee benefit plans under sections 104 and 4065 of ERISA and sections 6057(b) and 6058(a) of the Code.

*Merger* means merger as defined in § 4231.2 of this chapter.

*SFA coverage period* means the period beginning on the plan's SFA measurement date and ending on the last day of the last plan year ending in 2051.

*SFA measurement date* means the last day of the calendar quarter immediately preceding the date the plan's application was filed.

*Special financial assistance* or *SFA* means special financial assistance from PBGC under section 4262 of ERISA.

*Transfer and transfer of assets or liabilities* means transfer and transfer of assets or liabilities as defined in § 4231.2 of this chapter.

**§ 4262.3 Eligibility for special financial assistance.**

(a) *In general.* Subject to all the provisions of this section, a multiemployer plan is eligible for special financial assistance in any of the following cases:

(1) *Critical and declining status plans.* The plan is in critical and declining status within the meaning of section 305(b)(6) of ERISA for the specified year; or

(2) *Plans with a suspension of benefits.* A suspension of benefits has been approved with respect to the plan under section 305(e)(9) of ERISA as of March 11, 2021; or

(3) *Critical status plans.* The plan:

(i) Is certified to be in critical status within the meaning of section 305(b)(2) of ERISA for a specified year; and

(ii) The percentage calculated under paragraph (c)(2) of this section was less than 40 percent; and

(iii) The ratio of the total number of active participants at the end of the plan year required to be entered on the Form 5500 that was required to be filed for a specified year to the sum of inactive participants (retired or separated participants receiving benefits, other retired or separated participants entitled to future benefits, and deceased participants whose beneficiaries are receiving or are entitled to receive benefits) required to be entered on such Form 5500 was less than 2 to 3.

(4) *Insolvent plans.* The plan became insolvent for purposes of section 418E

of the Code after December 16, 2014, has remained insolvent, and has not terminated under section 4041A of ERISA as of March 11, 2021.

(b) *Specified year.* For purposes of this section, the term *specified year* means a plan year specified by the plan sponsor beginning in 2020, 2021, or 2022. The specified years for paragraphs (a)(3)(i), (ii), and (iii) of this section need not be the same.

(c) *Additional rules for critical status plans*—(1) *Elected status.* Election of critical status under section 305(b)(4) of ERISA does not satisfy the requirement for the certification of critical status by the plan's actuary under paragraph (a)(3)(i) of this section.

(2) *Percentage.* The percentage calculated as—

(i) The current value of net assets as of the first day of the plan year that was required to be entered on the Form 5500 Schedule MB that was required to be filed for a specified year; plus

(ii) The current value of withdrawal liability due to be received by the plan on an accrual basis, reflecting a reasonable allowance for amounts considered uncollectible, as of the first day of the plan year for the specified year in paragraph (c)(2)(i) of this section (if not already included in the current value of net assets in paragraph (c)(2)(i) of this section); divided by

(iii) The current liability attributable to all benefits as of the first day of the plan year required to be entered on the Form 5500 Schedule MB specified in paragraph (c)(2)(i) of this section.

(d) *Actuarial assumptions.* Determinations of eligibility under paragraph (a)(1) or (3) of this section must be made in accordance with the provisions in this paragraph (d).

(1) *Certifications completed before January 1, 2021.* For certifications of plan status completed before January 1, 2021, PBGC will accept assumptions incorporated in the determination of whether a plan is in critical status or critical and declining status as described in section 305(b) of ERISA unless such assumptions are clearly erroneous.

(2) *Certifications completed after December 31, 2020.* For certifications of plan status completed after December 31, 2020, the determination of whether a plan is in critical status or critical and declining status for purposes of eligibility for special financial assistance must be made using the assumptions that the plan used in its most recently completed certification of plan status before January 1, 2021, unless such assumptions (excluding the plan's interest rate assumption) are unreasonable.

(3) *Changes in assumptions.* If a plan determines that use of the assumptions under paragraph (d)(2) of this section is unreasonable, the plan's application may include a proposed change in the assumptions (excluding the plan's interest rate assumption), as described in § 4262.5.

**§ 4262.4 Amount of special financial assistance.**

(a) *In general.* Subject to paragraph (f) of this section, the amount of special financial assistance for a plan is the amount (if any), subject to adjustment for the date of payment as described in § 4262.12, by which—

(1) The value, as of the plan's SFA measurement date, of all SFA-eligible plan obligations; exceeds

(2) The value, as of the plan's SFA measurement date, of all SFA-eligible plan resources.

(b) *SFA-eligible plan obligations.* The value of SFA-eligible plan obligations as of the plan's SFA measurement date, is the sum of—

(1) The present value of benefits expected to be paid by the plan during the SFA coverage period including any reinstatement of benefits attributable to the elimination of reductions in a participant's or beneficiary's benefit due to a suspension of benefits under sections 305(e)(9) or 4245(a) of ERISA as required under § 4262.15 and any restoration of benefits under 26 CFR 1.432(e)(9)–1(e)(3), and assuming such reinstatements are paid beginning as of the SFA measurement date; and

(2) The present value of administrative expenses expected to be paid by the plan using plan assets during the SFA coverage period, excluding the amount owed to PBGC under section 4261 of ERISA (which is added to the amount of special financial assistance in § 4262.12 determined as of the date special financial assistance is paid).

(c) *SFA-eligible plan resources.* The value of SFA-eligible plan resources as of the plan's SFA measurement date, is the sum of—

(1) The fair market value of plan assets on the SFA measurement date; and

(2) The present value of future contributions, withdrawal liability payments, and other payments expected to be made to the plan (excluding the amount of financial assistance under section 4261 of ERISA and special financial assistance to be received by the plan) during the SFA coverage period.

(d) *Deterministic basis.* The projections in paragraphs (b)(1) and (2) and (c)(2) of this section must be



performed on a deterministic basis using a single set of assumptions as described in paragraph (e) of this section. The projections must be based on participant census data as of the first day of the plan year in which the plan's initial application for special financial assistance is filed, or, if the date on which the plan's initial application for special financial assistance is filed is less than 270 days after the beginning of the current plan year and the actuarial valuation for the current plan year is not complete, the projections may instead be based on the participant census data as of the first day of the plan year preceding the year in which the plan's initial application for special financial assistance is filed.

(e) *Actuarial assumptions.* The amount of special financial assistance must be determined in accordance with generally accepted actuarial principles and practices and the provisions in this paragraph (e).

(1) The assumed interest rate is the lesser of the rate in paragraph (e)(1)(i) or (ii) of this section.

(i) The interest rate in this paragraph (e)(1)(i) is the interest rate used for funding standard account purposes as projected in the plan's most recently completed certification of plan status before January 1, 2021.

(ii) The interest rate in this paragraph (e)(1)(ii) is the interest rate that is 200 basis points higher than the rate specified in section 303(h)(2)(C)(iii) of ERISA (disregarding modifications made under clause (iv) of such section) for the month in which the plan's application for special financial assistance is filed or one of the 3 preceding months, as selected by the plan.

(2) The assumptions other than the interest rate are those used for the plan's most recently completed certification of plan status before January 1, 2021, unless such assumptions are unreasonable.

(3) If a plan determines that use of the assumptions under paragraph (e)(2) of this section is unreasonable, the plan's application may include a proposed change in the assumptions (excluding the plan's interest rate assumption under paragraph (e)(1) of this section), as described in § 4262.5.

(f) *Certain events*—(1) *General rules.*

(i) The special financial assistance of a plan that experiences one or more of the events described in paragraphs (f)(2), (3), and (4) of this section during the period beginning on July 9, 2021, and ending on the SFA measurement date is limited to the amount of special financial assistance that would have applied to the plan on the SFA

measurement date if the events had not occurred, as determined in a reasonable manner.

(ii) The special financial assistance of a plan that experiences a merger event during the period described in paragraph (f)(1)(i) of this section is limited to the sum of the amounts of special financial assistance that would have applied to the plans involved in the merger on the SFA measurement date if the merger had not occurred, as determined in a reasonable manner. If any of the plans involved in the merger also experiences one or more of the events described in paragraph (f)(2), (3), or (4) of this section during the period described in paragraph (f)(1)(i) of this section, the amount of special financial assistance for that plan on the SFA measurement date, determined as if the merger had not occurred, must be determined in accordance with paragraph (f)(1)(i) of this section.

(2) *Transfers.* The event described in this paragraph (f)(2) is a transfer of assets or liabilities (including a spinoff).

(3) *Benefit increases.* The event described in this paragraph (f)(3) is the execution of a plan amendment increasing accrued or projected benefits under a plan, other than a restoration of suspended benefits that satisfies the requirements of 26 CFR 1.432(e)(9)–1(e)(3).

(4) *Contribution reductions.* The event described in this paragraph (f)(4) is the execution of a document reducing a plan's contribution rate (including any reduction in benefit accruals adopted simultaneously or arising from a pre-existing linkage between benefit accruals and contributions), but only if the plan does not demonstrate (in accordance with the special financial assistance instructions on PBGC's website at [www.pbtc.gov](http://www.pbtc.gov)) that the risk of loss to participants and beneficiaries is reduced (disregarding special financial assistance) by execution of the document. The document referred to in this paragraph (f)(4) is either—

(i) A collective bargaining agreement not rejected by the plan; or

(ii) A document reallocating contribution rates.

(5) *Effect of pre-event ineligibility.* In determining the amount of special financial assistance that would have applied to a plan if an event described in this paragraph (f) had not occurred, if the plan would have been ineligible for special financial assistance under § 4262.3 in the absence of the event, then the amount of special financial assistance is deemed to be \$0 (zero).

(6) *Examples.* The following examples illustrate the provisions of paragraph (f) of this section.

(i) *Example 1.* Plan A applies for special financial assistance. If the limitation in paragraph (f)(1)(i) of this section did not apply, Plan A would be entitled to special financial assistance in the amount of \$20X. Before the SFA measurement date, but on or after July 9, 2021, Plan A transferred a portion of its assets and liabilities to Plan B. If the transfer had not occurred, Plan A would, as of the SFA measurement date, be entitled to special financial assistance in the amount of \$40X. Although an event described in paragraph (f)(2) of this section occurred with respect to Plan A, Plan A's special financial assistance is unaffected by the limitation in paragraph (f)(1)(i) of this section and is \$20X. Plan B also applies for special financial assistance. If the limitation in paragraph (f)(1)(i) of this section did not apply, Plan B would be entitled to special financial assistance in the amount of \$30X. If the transfer from Plan A had not occurred, Plan B would, as of the SFA measurement date, be ineligible for special financial assistance. As a result of the event described in paragraph (f)(2) of this section, the limitation in paragraph (f)(1)(i) of this section reduces Plan B's special financial assistance from \$30X to \$0.

(ii) *Example 2.* Plan C applies for special financial assistance. If the limitation in paragraph (f)(1)(ii) of this section did not apply, Plan C would be entitled to special financial assistance in the amount of \$40X. Before the SFA measurement date, but on or after July 9, 2021, Plans A and B were merged into existing Plan C. If the mergers had not occurred, Plan A would not be eligible for special financial assistance, and Plan B and Plan C would be entitled, respectively, to \$10X and \$5X of special financial assistance as of the SFA measurement date. As a result of the merger event described in paragraph (f)(1)(ii) of this section, the limitation in paragraph (f)(1)(ii) of this section reduces Plan C's special financial assistance from \$40X to \$15X.

(iii) *Example 3.* Plan A applies for special financial assistance. If the limitation in paragraph (f)(1)(i) of this section did not apply, Plan A would be entitled to special financial assistance in the amount of \$10X. Before the SFA measurement date, but on or after July 9, 2021, projected benefits under Plan A were increased. If the increase had not occurred, Plan A would, as of the SFA measurement date, be ineligible for special financial assistance. As a result of the event described in paragraph (f)(3) of this section, applying the limitation in paragraph (f)(1)(i) of this section and in accordance with

paragraph (f)(5) of this section, Plan A is treated as being entitled to special financial assistance of \$0.

(iv) *Example 4.* Plan A applies for special financial assistance. If the limitation in paragraph (f)(1)(i) of this section did not apply, Plan A would be entitled to special financial assistance in the amount of \$10X. Before the SFA measurement date, but on or after July 9, 2021, Plan A's contribution rate was reduced. Plan A's benefit formula states that the monthly benefit accrual for a participant for a plan year is 2.0% of the contributions paid on behalf of the participant for that plan year. Since there is a pre-existing linkage between benefit accruals and contributions, the event described in paragraph (f)(4) of this section includes both the reduction in benefit accruals and the reduction in the contribution rate. If the contribution rate reduction and the reduction in benefit accruals had not occurred, Plan A would, as of the SFA measurement date, be entitled to special financial assistance of \$8X. Plan A does not provide a demonstration that the risk of loss to participants and beneficiaries is reduced (disregarding special financial assistance) due to the reduction in contribution rate and the reduction in benefit accruals. As a result of the events described in paragraph (f)(4) of this section, the limitation in paragraph (f)(1)(i) of this section reduces Plan A's special financial assistance from \$10X to \$8X.

#### **§ 4262.5 PBGC review of plan assumptions.**

(a) *In general.* (1) As set forth in § 4262.3(d)(1), PBGC will accept the assumptions used by a plan to determine eligibility for special financial assistance under § 4262.3(d)(1) unless PBGC determines that such assumptions are clearly erroneous.

(2) PBGC will accept the assumptions used by a plan to determine eligibility for special financial assistance under § 4262.3(d)(2) or to determine the amount of special financial assistance under § 4262.4(e)(2) unless PBGC determines that an assumption is unreasonable.

(3) PBGC will accept a plan's changes in assumptions under paragraph (c) of this section except to the extent that PBGC determines that an assumption is individually unreasonable, or the proposed changed assumptions are unreasonable in the aggregate.

#### *(b) Reasonableness of assumptions.*

(1) Each of the actuarial assumptions and methods used for the actuarial projections (excluding the interest rate assumption) must be reasonable in accordance with generally accepted

actuarial principles and practices, taking into account the experience of the plan and reasonable expectations. The actuary's selection of assumptions about future covered employment and contribution levels (including contribution base units and contribution rates) may be based on information provided by the plan sponsor, which must act in good faith in providing the information.

(2) If a plan has a change in assumptions under paragraph (c) of this section, each of the actuarial assumptions and methods (other than the interest rate) must be reasonable and the combination of those actuarial assumptions and methods (excluding the interest rate) must also be reasonable.

(c) *Changes in assumptions.* If a plan determines that use of an assumption described in § 4262.3(d)(2) or § 4262.4(e)(2) is unreasonable, the plan's application may include a proposed change in the assumptions (excluding the plan's interest rate assumption).

(1) The application for special financial assistance must—

- (i) Describe why the original assumption is no longer reasonable;
- (ii) Propose to use a different assumption (the changed assumption); and
- (iii) Demonstrate that the changed assumption is reasonable.

(2) PBGC will provide guidelines for changed assumptions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

#### **§ 4262.6 Information to be filed.**

(a) *In general.* An application for special financial assistance must include the information specified in this section and §§ 4262.7 (plan information) and 4262.8 (actuarial and financial information); a copy of the executed plan amendment required under paragraph (e)(1) of this section; a copy of the proposed plan amendment required under paragraph (e)(2) of this section; a completed checklist; and other information as described in the special financial assistance instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov). If any of the information required for an application for special financial assistance under this part is not accurately completed or not filed with the application, the application will not be considered complete.

(b) *Required trustee signature.* An application for special financial assistance must—

(1) Be signed and dated by an authorized trustee, who is a current member of the board of trustees and who is authorized to sign on behalf of the board of trustees, or by another

authorized representative of the plan sponsor; and

(2) Include the following statements signed by an authorized trustee who is a current member of the board of trustees: "Under penalties of perjury under the laws of the United States of America, I declare that I have examined this application, including accompanying documents, and, to the best of my knowledge and belief, the application contains all the relevant facts relating to the application, and such facts are true, correct, and complete."

(c) *Actuarial calculations.* All calculations that are required in an application for special financial assistance under this part must include a certification by the plan's enrolled actuary.

(d) *Clarifying information.* PBGC may require a plan sponsor to file additional information to clarify or verify information provided in the plan's application. The plan sponsor must promptly file any such information with PBGC upon request.

(e) *Duty to amend and supplement application.* The plan sponsor of a plan applying for special financial assistance must—

(1) Amend the plan to include the following special financial assistance provision effective through the end of the last plan year ending in 2051:

"Beginning with the SFA measurement date selected by the plan in the plan's application for special financial assistance, the plan shall be administered in accordance with the restrictions and conditions specified in section 4262 of ERISA and 29 CFR part 4262. This amendment is contingent upon approval by PBGC of the plan's application for special financial assistance."

(2) Amend the plan to reinstate benefits, as described in § 4262.15(a)(1), and make payments of previously suspended benefits, described in § 4262.15(a)(2), in accordance with guidance issued by the Secretary of the Treasury under section 432(k)(2) of the Code.

(3) During any time in which an application is pending approval by PBGC, the plan sponsor must promptly notify PBGC in writing as soon as the plan sponsor becomes aware that any material fact or representation contained in or relating to the application, or in any supporting documents, is no longer accurate, or that any material fact or representation was omitted from the application or supporting documents.

(f) *Disclosure of information.* Unless confidential under the Privacy Act, all information that is filed with PBGC for

an application for special financial assistance under this part may be made publicly available, at PBGC's sole discretion, on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov) or otherwise publicly disclosed. Except to the extent required by the Privacy Act, PBGC provides no assurance of confidentiality in any information or documentation included in an application for special financial assistance.

#### § 4262.7 Plan information.

(a) *Basic information.* An application for special financial assistance must include all of the following information with respect to the plan and amount of special financial assistance requested:

(1) Name of the plan, Employer Identification Number (EIN), and three-digit Plan Number (PN).

(2) Name of the individual filing the application and role of the individual with respect to the plan.

(3) Name, address, email, and telephone number of the plan sponsor and the plan sponsor's authorized representatives, if any.

(4) The total amount of special financial assistance requested.

(b) *Eligibility.* An application must identify the eligibility requirements in § 4262.3 that the plan satisfies to be eligible for special financial assistance. An application for a plan that is eligible under section 4262(b)(1)(C) of ERISA must include a demonstration to support that the plan meets the eligibility requirements.

(c) *Priority group identification.* An application must identify any priority group under § 4262.10(d)(2) that the plan is in. An application must include a demonstration to support the plan's inclusion in a priority group, unless the plan is insolvent under section 4245(a) of ERISA, has implemented a suspension of benefits under section 305(e)(9) of ERISA as of March 11, 2021, is in critical and declining status (as defined in section 305(b)(6) of ERISA) and had 350,000 or more participants, or is listed on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov) as a plan in priority group 6, as defined under § 4262.10(d)(2)(vi).

(d) *Plans with a suspension of benefits.* If a plan previously suspended benefits under sections 305(e)(9) or 4245(a) of ERISA, its application must include a description of how the plan will reinstate the benefits that were previously suspended and a proposed schedule showing aggregate amount and timing of payments (in accordance with § 4262.15) to participants and beneficiaries under the plan. The proposed schedule should be prepared assuming the effective date for

reinstatement is the SFA measurement date and that payments for previously suspended benefits described in § 4262.15(a)(2) are paid or commence on the SFA measurement date. If the plan restored benefits under 26 CFR 1.432(e)(9)–1(e)(3) before the SFA measurement date, the proposed schedule should reflect the amount and timing of payments of restored benefits and the effect of the restoration on the benefits remaining to be reinstated.

(e) *Plan documentation.* An application must include all of the following plan documentation:

(1) Most recent plan document or restatement of the plan document and all subsequent amendments adopted (if any), including a copy of the executed plan amendment required under § 4262.6(e)(1).

(2) A copy of the proposed plan amendment required under § 4262.6(e)(2) and certification by the plan sponsor that the plan amendment will be timely adopted.

(3) Most recent trust agreement or restatement of the trust agreement and all subsequent adopted amendments (if any).

(4) Most recent IRS determination letter.

(5) Actuarial valuation report completed for the 2018 plan year and each subsequent actuarial valuation report completed before the date the plan's application was filed.

(6) Most recent rehabilitation plan (or funding improvement plan, if applicable), including all subsequent amendments and updates, and the percentage of total contributions received under each schedule of the rehabilitation plan for the most recent plan year available. If the most recent rehabilitation plan does not include historical documentation of rehabilitation plan changes (if any) that occurred in calendar year 2020 and later, these details must be provided in a supplemental document.

(7) Most recent Form 5500 and all schedules and attachments (including the audited financial statement).

(8) Plan actuary's certification of plan status required under section 305(b)(3) of ERISA completed for the 2018 plan year and each subsequent annual certification completed before the date the plan's application was filed, with documentation supporting each certification, which must include the projections and information required in the special financial assistance instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

(9) Most recent statement for each of the plan's cash and investment accounts.

(10) Most recent plan financial statement (audited, or unaudited if audited is not available).

(11) Bank account and other information necessary for electronic payment of funds.

(12) All written policies and procedures governing withdrawal liability determination, assessment, collection, settlement, and payment.

#### § 4262.8 Actuarial and financial information.

(a) *Required information.* An application for special financial assistance must include all of the following actuarial and financial information:

(1) For each plan year from the 2018 plan year until the most recent plan year for which the Form 5500 is required to be filed, the projection of expected benefit payments as required to be attached to the Form 5500 Schedule MB if the response to the question at line 8b(1) of the Form 5500 Schedule MB is "Yes".

(2) For a plan that has 10,000 or more participants as required to be entered on line 6f of the plan's most recently filed Form 5500, a listing of the 15 largest contributing employers and the contribution amounts for each for the most recently completed plan year.

(3) Historical plan financial information for each of the most recent 10 plan years immediately preceding the date the plan's application was filed that separately identifies: Total contributions; total contribution base units; average contribution rates; number of active participants at the beginning of each plan year; and other sources of non-investment income, including, if applicable, withdrawal liability payments collected, contributions from reciprocity agreements, and other sources of contributions or income not already identified.

(4) Information used to determine the amount of the requested special financial assistance, based on a deterministic projection, including all of the following information—

(i) Interest rate required under § 4262.4(e)(1), including supporting details on how it was determined.

(ii) Fair market value of plan assets determined as of the SFA measurement date; a certification from the plan sponsor with respect to the accuracy of this amount, including information that substantiates the asset value and any projections to the SFA measurement date (including details and supporting rationale); and a reconciliation of the fair market value of plan assets from the date of the most recent plan financial

statement to the SFA measurement date showing contributions, withdrawal liability payments, benefit payments, administrative expenses, and investment income.

(iii) Special financial assistance determined as a lump sum as of the SFA measurement date.

(iv) For each plan year in the SFA coverage period: The projected amount of contributions, projected withdrawal liability payments, and other payments expected to be made to the plan.

(v) For each plan year in the SFA coverage period: Benefit payments described in § 4262.4(b)(1) attributable to the reinstatement of benefits under § 4262.15 that were previously suspended through the SFA measurement date and any benefits restored under 26 CFR 1.432(e)(9)–1(e)(3).

(vi) For each plan year in the SFA coverage period: Benefit payments described in § 4262.4(b)(1) (excluding the payments in paragraph (a)(4)(v) of this section), separately for current retirees and beneficiaries in pay status, terminated participants not yet in pay status, current active participants, and new entrants.

(vii) For each plan year in the SFA coverage period: Administrative expenses expected to be paid using plan assets, excluding the amount owed PBGC under section 4261 of ERISA.

(viii) For each plan year in the SFA coverage period: The projected investment income based on the interest rate required under § 4262.4(e)(1) and the projected fair market value of plan assets at the end of each plan year.

(ix) The present value as of the SFA measurement date of each of the items provided under paragraph (a)(4)(iv) through (viii) of this section.

(5) Projected contributions and withdrawal liability payments used to calculate the requested special financial assistance amount in § 4262.4, including total contributions, contribution base units, average contribution rate(s), reciprocal contributions (if applicable), additional contributions from the rehabilitation plan, and any other contributions, and number of active participants at the beginning of each plan year. For withdrawal liability, separate projections for withdrawn employers and for future assumed withdrawals.

(6) A description of the development of the assumed future contributions and future withdrawal liability payments in paragraph (a)(5) of this section.

(7) For a plan that has 350,000 or more participants reported on line 6f of its most recently filed Form 5500, the participant census data utilized by the

plan actuary in developing the cash flow projections included in the application.

(b) *Information required for changed assumptions.* An application for a plan that proposes to change any assumption used in the plan's most recently completed certification of plan status before January 1, 2021, must include all of the following information:

(1) A table identifying which assumptions used in demonstrating the plan's eligibility for special financial assistance or in calculating the amount of special financial assistance differ from those assumptions used in the plan's most recently completed certification of plan status before January 1, 2021, and detailed narrative explanations (with supporting rationale and information) as to why any assumption used in the certification is no longer reasonable and why the changed assumption is reasonable.

(2) Deterministic cash flow projection ("Baseline") in accordance with the special financial assistance instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov) that shows the amount of special financial assistance that would be determined if all underlying assumptions used in the projection were the same as those used in the actuarial certification of plan status last completed before January 1, 2021 (excluding the plan's interest rate, which must be the same as the interest rate required under § 4262.4(e)(1)). For purposes of this paragraph (b)(2), certain changes in assumptions as described in the special financial assistance instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov) should be reflected in the Baseline projection.

(3) In accordance with the special financial assistance instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov), a reconciliation of the change in the requested special financial assistance due to each changed assumption from the Baseline to the requested special financial assistance amount in paragraph (a)(4)(iii) of this section, showing, for each assumption change from the Baseline, a deterministic projection calculated in the same manner as the requested amount in § 4262.4.

(c) *Information required for certain events.* An application for a plan with respect to which an event described in § 4262.4(f) occurs on or after July 9, 2021, must include the applicable information related to the event specified in special financial assistance instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

#### § 4262.9 Application for a plan with a partition.

(a) *In general.* This section applies to plans partitioned under section 4233 of ERISA. A partitioned plan is in priority group 2 for purposes of § 4262.10(d).

(b) *Filing requirements.* A plan sponsor of a partitioned plan filing an application for special financial assistance must—

(1) File one application for the original plan and successor plan.

(2) Include in the application—

(i) A statement that the plan was partitioned under section 4233 of ERISA;

(ii) A copy of the plan document and other amendments required under paragraph (c)(2) of this section; and

(iii) The information required in §§ 4262.6 through 4262.8.

(3) If a plan sponsor has already filed with PBGC any of the required information described in paragraph (b)(2)(iii) of this section, the plan sponsor is not required to file that information with its application for special financial assistance. For any such information not filed with the application, the plan sponsor must note on the checklist described under § 4262.6(a) when the information was filed.

(c) *Rescission of partition order.* Effective when special financial assistance is paid under § 4262.12, and in a manner consistent with the application procedure determined under paragraph (b) of this section—

(1) PBGC will rescind the partition order; and

(2) The plan sponsor must amend the plan to remove any provisions or amendments that were required to be adopted under the partition order.

#### § 4262.10 Processing applications.

(a) *In general.* Any application for special financial assistance for an eligible multiemployer plan must be filed by the plan sponsor in accordance with the provisions of this part and the special financial assistance instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

(b) *Method of filing.* An application filed with PBGC under this part must be made electronically in accordance with the rules in subpart A of part 4000 of this chapter. The time period for filing an application under this part must be computed under the rules in subpart D of part 4000 of this chapter.

(c) *Where to file.* (1) An application filed with PBGC under this part must be filed as described in § 4000.4 of this chapter.

(2) Section 432(k)(1)(D) of the Code requires an application in a priority category under paragraph (d)(2) of this

section to be submitted to the Secretary of the Treasury. If the requirement in the preceding sentence applies to an application, PBGC will transmit the application to the Department of the Treasury on behalf of the plan.

(d) *When to file.* Any initial application for special financial assistance must be filed by December 31, 2025, and any revised application must be filed by December 31, 2026. Any application other than a plan's initial application is a revised application regardless of whether it differs from the initial application.

(1) *Processing system.* To accommodate expeditious processing of many special financial assistance applications in a limited time period:

(i) The number of applications accepted for filing will be limited in such manner that, in PBGC's estimation, each application can be processed within 120 days.

(ii) Plans specified in paragraph (d)(2) of this section will be given priority to file an application before plans not specified in paragraph (d)(2) of this section.

(iii) Notices on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov) will apprise potential filers of the current priority group(s) for which applications are being accepted and whether PBGC is accepting applications for filing as well as other information about priority groups and filing.

(2) *Priority groups.* Until not later than March 11, 2023, the plan sponsor of an eligible multiemployer plan will be given priority to file an application if the plan is in one of the priority groups in paragraphs (d)(2)(i) through (vii) of this section, listed in order of higher priority group to lower priority group. When applications for plans in a priority group are accepted for filing, PBGC will continue to accept applications for plans in a higher priority group, subject to paragraph (d)(1) of this section.

(i) *Priority group 1.* A plan is in priority group 1 if the plan is insolvent or is projected to become insolvent under section 4245 of ERISA by March 11, 2022. A plan in priority group 1 may file an application beginning on July 9, 2021.

(ii) *Priority group 2.* A plan is in priority group 2 if the plan has implemented a suspension of benefits under section 305(e)(9) of ERISA as of March 11, 2021; or the plan is expected to be insolvent under section 4245 of ERISA within 1 year of the date the plan's application was filed. A plan in priority group 2 may file an application beginning on January 1, 2022, or such

earlier date specified on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

(iii) *Priority group 3.* A plan is in priority group 3 if the plan was in critical and declining status (as defined in section 305(b)(6) of ERISA) and had 350,000 or more participants. A plan in priority group 3 may file an application beginning on April 1, 2022, or such earlier date specified on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

(iv) *Priority group 4.* A plan is in priority group 4 if the plan is projected to become insolvent under section 4245 of ERISA by March 11, 2023. A plan in priority group 4 may file an application beginning on July 1, 2022, or such earlier date specified on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

(v) *Priority group 5.* A plan is in priority group 5 if the plan is projected to become insolvent under section 4245 of ERISA by March 11, 2026. The date a plan in priority group 5 may file an application will be specified on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov) at least 21 days in advance of such date, and such date will be no later than February 11, 2023.

(vi) *Priority group 6.* A plan is in priority group 6 if the plan is projected by PBGC to have a present value of financial assistance payments under section 4261 of ERISA that exceeds \$1,000,000,000 if special financial assistance is not ordered. PBGC will list the plans in priority group 6 on its website at [www.pbgc.gov](http://www.pbgc.gov). The date a plan in priority group 6 may file an application will be specified on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov) at least 21 days in advance of such date, and such date will be no later than February 11, 2023.

(vii) *Additional priority groups.* PBGC may add additional priority groups based on other circumstances similar to those described for the groups listed in paragraphs (d)(2)(i) through (vi) of this section. If added, additional priority groups and the date PBGC will begin accepting applications for such additional priority groups will be posted in guidance on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

(e) *Filing date.* An application will be considered filed on the date it is submitted to PBGC if it meets the applicable requirements in paragraph (d) of this section and can be accommodated in accordance with the processing system described in paragraph (d)(1) of this section or the emergency filing process described in paragraph (f) of this section. Otherwise, the application will not be considered filed and PBGC will notify the applicant that the application was not properly filed and that the application must be

filed in accordance with the processing system and instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

(f) *Emergency filing.* Beginning when PBGC accepts applications in priority group 2 described in paragraph (d)(2)(ii) of this section, and notwithstanding the processing system described in paragraph (d)(1) of this section, an application may be accepted for filing if—

(1) It is an application for a plan that either—

(i) Is insolvent or expected to be insolvent under section 4245 of ERISA within 1 year of the date the plan's application was filed; or

(ii) Has suspended benefits under section 305(e)(9) of ERISA as of March 11, 2021; and

(2) The filer notifies PBGC before submitting the application that the application qualifies as an emergency filing under this paragraph (f) in accordance with instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

(g) *Informal consultation.* Nothing in this section prohibits a plan sponsor from contacting PBGC informally to discuss a potential application for special financial assistance.

#### **§ 4262.11 PBGC action on applications.**

(a) *In general.* Within 120 days after the date an initial or revised application for special financial assistance is properly and timely filed, PBGC will—

(1) Approve the application and notify the plan sponsor of the payment of special financial assistance in accordance with § 4262.12; or

(2) Deny the application because—

(i) The application is incomplete, and notify the plan sponsor of the missing information; or

(ii) An assumption is unreasonable, a proposed change in assumption is individually unreasonable, or the proposed changed assumptions are unreasonable in the aggregate, and notify the plan sponsor of the reasons for the determination; or

(iii) The plan is not an eligible multiemployer plan, and notify the plan sponsor of the reasons the plan fails to be eligible for special financial assistance; or

(3) Fail to act on the application, in which case the application is deemed approved, and notify the plan sponsor of the payment of special financial assistance in accordance with § 4262.12.

(b) *Incomplete application.* PBGC will consider an application incomplete under paragraph (a)(2)(i) of this section unless the application accurately includes the information required to be filed under this part and the special financial assistance instructions on

PBGC's website at [www.pbgc.gov](http://www.pbgc.gov), including all additional information that PBGC requires under § 4262.6(d).

(c) *Application base data.* (1) A plan's base data are—

(i) The plan's SFA measurement date as required to be reported in the plan's initial application for special financial assistance;

(ii) The plan's participant census data used in the plan's initial application for special financial assistance; and

(iii) The plan's interest rate required under § 4262.4(e)(1).

(2) A plan's base data are fixed by the filing of the plan's initial application and must be reported on any revised application for the plan.

(d) *Withdrawn applications.* (1) A plan's application for special financial assistance may be withdrawn at any time before or after PBGC denies the application but not after PBGC has approved the application.

(2) Any withdrawal of a plan's application must be by written notice to PBGC submitted by any person authorized to submit an application for the plan and in accordance with the special financial assistance instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

(3) An application submitted for a plan after the withdrawal of an application is a revised application and must comply with the requirements in this part for an initial application except that it must use the base data required in paragraph (c) of this section for the initial application.

(e) *Denied applications.* If PBGC denies a plan's application, and the denied application is not withdrawn, any revised application must not differ from the denied application except to the extent necessary to address the reasons cited by PBGC for the denial.

(f) *Revised applications.* A plan's revised application is processed in the same way as an initial application.

(g) *Final agency action.* PBGC's decision on an application for special financial assistance under this section is a final agency action under § 4003.22(b) of this chapter for purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 701 *et seq.*).

#### **§ 4262.12 Payment of special financial assistance.**

(a) *Amount of special financial assistance.* (1) The amount of special financial assistance to be paid to or for a plan by PBGC will be the total of—

(i) The amount required as demonstrated by the plan sponsor on the application for such special financial assistance, determined under § 4262.4 as of the SFA measurement date; plus

(ii) Interest on the amount in paragraph (a)(1)(i) of this section from the SFA measurement date to the date PBGC sends payment (not the bank settlement date) at a rate equal to the interest rate required under § 4262.4(e)(1); plus

(iii) The amount owed to PBGC under section 4261 of ERISA determined as of the date PBGC sends payment of special financial assistance; minus

(iv) Financial assistance payments under section 4261 of ERISA received by the plan between the SFA measurement date and the date PBGC sends payment of special financial assistance, with interest on each such financial assistance payment from the date thereof to the date PBGC sends payment as described in paragraph (a)(1)(ii) of this section calculated at a rate equal to the interest rate required under § 4262.4(e)(1).

(2) The plan must include in its application payment instructions in accordance with the special financial instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov). Payment will be considered made by PBGC when, in accordance with the payment instructions in the application, PBGC no longer has ownership of the amount being paid. Any adjustment for delay will be borne by PBGC only to the extent that it arises while PBGC has ownership of the funds.

(b) *Repayment of traditional financial assistance.* If a plan has an obligation to repay financial assistance under section 4261 of ERISA, PBGC will—

(1) Issue a written demand for repayment of financial assistance when the application is approved; and

(2) Deduct the amount of financial assistance, including interest, that the plan owes PBGC from the special financial assistance before payment to the plan.

(c) *Date of payment of special financial assistance.* Special financial assistance issued by PBGC will be paid as soon as practicable upon approval of the plan's special financial assistance application but not later than the earlier of—

(1) Ninety days after a plan's special financial assistance application is approved by PBGC or deemed approved; or

(2) September 30, 2030.

(d) *Manner of payment.* The payment of special financial assistance to a plan will be made by PBGC in a lump sum or substantially so and is not a loan subject to repayment obligations. Notwithstanding the foregoing, the following payment obligations apply:

(1) Special financial assistance is subject to recalculation or adjustment to

correct a clerical or arithmetic error. PBGC will, and plans must, make payments as needed to reflect any such recalculation or adjustment in a timely manner.

(2) If PBGC determines that a payment for special financial assistance to a plan exceeded the amount to which the plan was entitled, any excess payment constitutes a debt to the Federal Government. If not paid within 90 calendar days after demand, PBGC may reduce the debt by any action permitted by Federal statute. Except where otherwise provided by statutes or regulations, PBGC will charge interest and other amounts permitted on an overdue debt in accordance with the Federal Claims Collection Standards (31 CFR parts 900 through 999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

#### **§ 4262.13 Restrictions on special financial assistance.**

(a) *In general.* A plan that receives special financial assistance must be administered in accordance with the restrictions in this section and in § 4262.14.

(b) *Restrictions.* Special financial assistance received, and any earnings thereon—

(1) May be used by the plan only to make benefit payments and pay administrative expenses;

(2) Must be segregated from other plan assets;

(3) May be used before other plan assets are used to make benefit payments and pay administrative expenses; and

(4) Must be invested in investment-grade bonds or other investments as permitted by PBGC in § 4262.14.

#### **§ 4262.14 Permissible investments of special financial assistance.**

(a) *In general.* A plan that receives special financial assistance may invest amounts attributable to such assistance monies only in fixed income securities denominated in U.S. dollars and in accordance with this section. For purposes of this section, such securities are referred to as permissible investments.

(b) *Other definitions.* For purposes of this section—

(1) *Adequate capacity to meet financial commitments* means that the risk of default by the obligor is low and the full and timely repayment of principal and interest on the security is expected.

(2) *Permissible fund vehicles* mean exchange traded funds, mutual funds, pooled trusts, or other commingled

securities whose investible assets are invested solely in fixed income securities denominated in U.S. dollars, with an average credit quality, weighted by market value, that meets the definition of investment grade.

(3) *Investment grade* means publicly traded securities for which the issuer has at least adequate capacity to meet the financial commitments under the security for the projected life of the asset or exposure.

(4) *Leverage* means the right to a return on a capital base that exceeds the investment which was contributed to the entity or instrument achieving a return.

(c) *Holdings*. A plan must hold permissible investments in either—

(1) Individual bonds, securities, or other debt securities; or

(2) Permissible fund vehicles.

(d) *Quality of permissible investments*. Permissible investments must be considered investment grade by a fiduciary, within the meaning of section 3(21) of ERISA, who is or seeks the advice of an experienced investor (such as an Investment Advisor registered under section 203 of the Investment Advisor's Act of 1940), except that up to 5 percent of the aggregate market value of a plan's assets attributable to special financial assistance may be invested in securities or permissible fund vehicles that were investment grade at the time of purchase but are no longer investment grade.

(e) *Leverage and derivative limitations on permissible fund vehicles or portfolio of individual securities held by the plan*.

(1) Permissible investments, whether held through permissible fund vehicles or directly through a portfolio of individual securities may not be supplemented by derivatives or otherwise leveraged in a way that could increase the interest rate risk or credit risk in the fund vehicle or portfolio beyond the risk in a portfolio of physical securities, meeting the definition of permissible investments in paragraph (a) of this section, equal to the market value of the portfolio; and

(2) Any notional derivative exposure, other than exposure gained through a permissible fund vehicle, must be supported by liquid assets that are cash or cash equivalents denominated in U.S. dollars.

#### **§ 4262.15 Reinstatement of benefits previously suspended.**

(a) In accordance with guidance issued by the Secretary of the Treasury under section 432(k) of the Code, a plan with benefits that were suspended under sections 305(e)(9) or 4245(a) of ERISA must:

(1) Reinstatement of any benefits that were suspended for participants and beneficiaries effective as of the first month in which the special financial assistance is paid to the plan; and

(2) Make payments equal to the amounts of benefits previously suspended to any participants or beneficiaries who are in pay status as of the date that the special financial assistance is paid.

(b) A plan must make the payments in paragraph (a)(2) of this section either in:

(1) A single lump sum no later than 3 months after the date that the special financial assistance is paid to the plan; or

(2) Equal monthly installments over a period of 5 years, with the first installment paid no later than 3 months after the date that the special financial assistance is paid to the plan, with no installment payment adjusted for interest.

(c) The plan sponsor of a plan with benefits that were suspended under sections 305(e)(9) or 4245(a) of ERISA must issue a notice of reinstatement to participants and beneficiaries whose benefits were previously suspended and then reinstated in accordance with section 4262(k) of ERISA. The requirements for the notice are in notice of reinstatement instructions available on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov).

#### **§ 4262.16 Conditions for special financial assistance.**

(a) *In general*. A plan that receives special financial assistance must be administered in accordance with the conditions in this section.

(b) *Benefit increases*. This paragraph (b) applies to benefits and benefit increases described in section 4022A(b)(1) of ERISA without regard to the time the benefit or benefit increase has been in effect. This paragraph (b) does not apply to the reinstatement of benefits that were suspended under sections 305(e)(9) or 4245(a) of ERISA (as provided under § 4262.15) or a restoration of benefits under 26 CFR 1.432(e)(9)–1(e)(3).

(1) *Retrospective*. A benefit or benefit increase must not be adopted during the SFA coverage period if it is in whole or in part attributable to service accrued or other events occurring before the adoption date of the amendment.

(2) *Prospective*. A benefit or benefit increase must not be adopted during the SFA coverage period unless—

(i) The plan actuary certifies that employer contribution increases projected to be sufficient to pay for the benefit increase have been adopted or agreed to; and

(ii) Those increased contributions were not included in the determination of the special financial assistance.

(c) *Allocation of plan assets*. During the SFA coverage period, plan assets, including special financial assistance, must be invested in permissible investments as described in § 4262.14 sufficient to pay for at least 1 year (or until the date the plan is projected to become insolvent, if earlier) of projected benefit payments and administrative expenses.

(d) *Contribution decreases*. (1) During the SFA coverage period, the contributions to a plan that receives special financial assistance required for each contribution base unit must not be less than, and the definition of the contribution base units used must not be different from, those set forth in collective bargaining agreements or plan documents (including contribution increases to the end of the collective bargaining agreements) in effect on March 11, 2021, unless the plan sponsor determines that the change lessens the risk of loss to plan participants and beneficiaries and, if the contribution reduction affects annual contributions over \$10 million and over 10 percent of all employer contributions, PBGC also determines that the change lessens the risk of loss to plan participants and beneficiaries.

(2) A request for PBGC approval of a proposed contribution change that affects annual contributions over \$10 million and over 10 percent of all employer contributions must be submitted by the plan sponsor or its duly authorized representative and must contain all of the following information:

(i) Name, address, email, and telephone number of the plan sponsor and the plan sponsor's authorized representatives, if any.

(ii) The nine-digit employer identification number (EIN) assigned to the plan sponsor by the IRS and the three-digit plan identification number (PN) assigned to the plan by the plan sponsor, and, if different, the EIN and PN last filed with PBGC. If an EIN or PN has not been assigned, that should be indicated.

(iii) Name, address, email, and telephone number of the contributing employer for which the proposed contribution change is being submitted, and the employer's authorized representatives, if any.

(iv) Names and addresses of each controlled group member, along with a chart depicting the structure of the controlled group by entity and its ownership with ownership percentage.

(v) Audited financial statements (income statement, balance sheet, cash

flow statement, and notes) for the contributing employer and the consolidated group including the contributing employer, if available, for the most recent 4 years, or, if audited financial statements were not prepared, unaudited financial statements, a statement explaining why audited statements are not available, and tax returns with all schedules for the most recent 4 years available. The financial statement submissions must:

(A) Identify the cash contributions to the multiemployer plan for which the contributing employer is seeking contribution relief;

(B) Identify all outstanding indebtedness, including the name of the lender, the amount of the outstanding loan, scheduled repayments interest rate, collateral, significant covenants, and whether the loan is in default;

(C) Identify and explain any material changes in financial position since the date of the last financial statement;

(D) To the extent that the contributing employer has undergone or is in the process of undergoing a partial liquidation, estimate the sales, gross profit, and operating profit that would have been reported for each of the 3 years covered by the financial statement for only that portion of the business that is currently expected to continue; and

(E) State the estimated liquidation values for any assets related to discontinued operations or operations that are not expected to continue, along with the sources for the estimates.

(vi) Projected financial statements (income statement, balance sheet, cash flow statement) for the current year and the following 4 years as well as the key assumptions underlying those projections and a justification for the reasonableness for each of those key assumptions. The projections must include:

(A) All business or operating plans prepared by or for management, including all explanatory text and schedules;

(B) All financial submissions, if any, made within the prior 3 years to a financial institution, government agency, or investment banker in support of possible outside financing or sale of the business;

(C) All recent financial analyses done by an outside party with a certification by the employer's chief executive officer that the information on which each analysis is based is accurate and complete; and

(D) Any other relevant information.

(vii) Description of events leading to the current financial distress.

(viii) Description of financial and operational restructuring actions taken

to address financial distress, including cost cutting measures, employee count or compensation reductions, creditor concessions obtained, and any other restructuring efforts undertaken; also, indicate whether any new profit-sharing or other retirement plan has been or will be established or if benefits under such existing plan will be increased.

(e) *Allocating contributions and other practices.* During the SFA coverage period, a decrease in the proportion of income or an increase in the proportion of expenses allocated to a plan that receives special financial assistance pursuant to a written or oral agreement or practice (other than a written agreement in existence on March 11, 2021, to the extent not subsequently amended or modified) under which the income or expenses are divided or to be divided between a plan that receives special financial assistance and one or more other employee benefit plans is prohibited. The prohibition in the preceding sentence does not apply to a good faith allocation of:

(1) Contributions pursuant to a reciprocity agreement;

(2) Costs of securing shared space, goods, or services, where such allocation does not constitute a prohibited transaction under ERISA or is exempt from such prohibited transaction provisions pursuant to section 408(b)(2) or 408(c)(2) of ERISA, or pursuant to a specific prohibited transaction exemption issued by the Department of Labor under section 408(a) of ERISA;

(3) The actual cost of services provided to the plan by an unrelated third party; or

(4) Contributions where the contributions to a plan that receives special financial assistance required for each base unit are not reduced, except as otherwise permitted by paragraph (d) of this section.

(f) *Transfer or merger.* During the SFA coverage period, a plan must not engage in a transfer of assets or liabilities (including a spinoff) or merger except with PBGC's approval. Notwithstanding anything to the contrary in 29 CFR part 4231, the plans involved in the transaction must request approval from PBGC.

(1) PBGC will approve a proposed transfer of assets or liabilities (including a spinoff) or merger if PBGC determines that the transaction complies with section 4231(a)–(d) of ERISA and that the transaction, or the larger transaction of which the transfer or merger is a part, does not unreasonably increase PBGC's risk of loss with respect to any plan involved in the transaction, and is not reasonably expected to be adverse to the

overall interests of the participants and beneficiaries of any of the plans involved in the transaction.

(2) A request for approval of a proposed transfer of assets or liabilities (including a spinoff) or merger must be submitted by the plan sponsor or its duly authorized representative and must contain the information that must be submitted with a notice of merger or transfer and a request for a compliance determination under subpart A of part 4231 of this chapter and all of the following actuarial and financial information for each of the plans involved in the transaction:

(i) A certification by the enrolled actuary that the plan or any of its component parts received special financial assistance and the most recent value of special financial assistance assets.

(ii) A copy of the actuarial valuation performed for each of the 2 plan years before the most recent actuarial valuation filed in accordance with § 4231.9(f) of this chapter.

(iii) A copy of the plan actuary's most recent certification under section 305(b)(3) of ERISA, including a detailed description of the assumptions used in the certification, and the basis under which they were determined. The description must include information about the assumptions used for the projection of future contributions, withdrawal liability payments, and investment returns, and any other assumption that may have a material effect on projections.

(iv) A detailed statement certified by an enrolled actuary that the transaction does not unreasonably increase PBGC's risk of loss with respect to any plan involved in the transaction. The statement must include the basis for the conclusion, supporting data, calculations, assumptions, a description of the methodology, the basis for assumptions used, the projected date of insolvency, and the present value of financial assistance expected to be paid to the plan by PBGC under section 4261 of ERISA as of the date of the transaction individually for each of the plans before and after the transaction. The present value of financial assistance must be based on the guaranteed benefits and administrative expenses presented in the cash flow projections under paragraph (f)(2)(v) of this section, discounted using interest rates published under section 4044 of ERISA.

(v) The statement in paragraph (f)(2)(iv) of this section must include an exhibit showing the annual cash flow projections for each plan before and after the transaction, through the year that each plan pays its last dollar of



benefit (but not to exceed 100 years). The cash flow projection should use an open group valuation until the plan reaches insolvency. Annual cash flow projections must reflect the following information:

(A) Fair market value of assets as of the beginning of the year, splitting the assets by special financial assistance and non-special financial assistance amounts.

(B) Contributions and withdrawal liability payments.

(C) Plan level benefit payments organized by participant type (e.g., active, retiree, terminated vested) for the projection period.

(D) Guaranteed benefits payable post insolvency by participant type (e.g., active, retiree, terminated vested).

(E) Administrative expenses for the projection period.

(F) Assumed investment return separately for special financial assistance and non-special financial assistance amounts.

(G) Fair market value of assets as of the end of the year.

(vi) Any additional information PBGC determines it needs to review a request for approval of a proposed transfer of assets or liabilities (including a spinoff) or merger.

(g) *Withdrawal liability interest assumptions.* A plan must use the interest assumptions under § 4281.13(a) of this chapter to determine withdrawal liability for withdrawals after the plan year in which the plan receives payment of special financial assistance under § 4262.12 and until the later of—

(1) Ten years after the end of the plan year in which the plan receives payment of special financial assistance under § 4262.12; or

(2) The last day of the plan year in which the plan no longer holds any special financial assistance or earnings thereon in a segregated account as required by § 4262.13(b)(2).

(h) *Withdrawal liability settlement.* (1) During the SFA coverage period, a plan must obtain PBGC approval for a proposed settlement of withdrawal liability if the amount of the liability settled is greater than \$50 million calculated as the lesser of—

(i) The allocation of unfunded vested benefits to the employer under section 4211 of ERISA; or

(ii) The present value of withdrawal liability payments assessed for the employer discounted using the interest assumptions under § 4281.13(a) of this chapter.

(2) PBGC will approve a proposed settlement of withdrawal liability if it determines—

(i) Implementation of the settlement is in the best interests of participants and beneficiaries; and

(ii) The settlement does not create an unreasonable risk of loss to PBGC.

(3) A request for approval of a proposed settlement of withdrawal liability must be submitted by the plan sponsor or its duly authorized representative and must contain all of the following information:

(i) Name, address, email, and telephone number of the plan sponsor and the plan sponsor's authorized representatives, if any.

(ii) The nine-digit employer identification number (EIN) assigned to the plan sponsor by the IRS and the three-digit plan number (PN) assigned to the plan by the plan sponsor, and, if different, the EIN and PN last filed with PBGC. If an EIN or PN has not been assigned, that should be indicated.

(iii) A copy of the proposed settlement agreement.

(iv) A description of the facts leading up to the proposed settlement, including—

(A) The date the employer withdrew from the plan;

(B) The calculation of the withdrawal liability amount, including payment dates and amounts listed in the schedule for liability payments provided to the withdrawn employer in accordance with section 4291(b)(1)(A) of ERISA;

(C) The amount(s) and date(s) of withdrawal liability payments made; and

(D) How the proposed settlement amount was determined (discount rate used, financial condition of the employer, and other factors, as applicable).

(v) Most recent 3 years of audited financial statements and a 5-year cash flow projection for the employer with which the plan proposes to settle.

(vi) A copy of the most recent actuarial valuation report of the plan.

(vii) A statement certifying the trustees have determined that the proposed settlement is in the best interest of the plan and the plan's participants and beneficiaries.

(viii) Any additional information PBGC determines it needs to review a request for approval of a proposed withdrawal liability settlement.

(i) *Reporting.* In accordance with the statement of compliance instructions on PBGC's website at [www.pbgc.gov](http://www.pbgc.gov), a plan sponsor must file with PBGC each plan year, beginning with the plan year after the payment of special financial assistance and through the last day of the last plan year ending in 2051, a statement of compliance with the terms

and conditions of the special financial assistance under this part and section 4262 of ERISA. The statement must be—

(1) Filed no later than 90 days after the end of the plan year; and

(2) Signed and dated by a trustee who is a current member of the board of trustees and authorized to sign on behalf of the board of trustees, or by another authorized representative of the plan sponsor.

(j) *Audit.* As authorized under section 4003 of ERISA, PBGC may conduct periodic audits of a plan that has received special financial assistance to review compliance with the terms and conditions of the special financial assistance under this part and section 4262 of ERISA.

(k) *Filing rules.* The filing rules in this paragraph (k) apply to a request for PBGC approval under paragraph (d), (f), or (h) of this section and a statement of compliance under paragraph (i) of this section.

(1) *Method of filing.* A filing described under paragraph (d), (f), (h), or (i) of this section must be made electronically in accordance with the rules in subpart A of part 4000 of this chapter. The time period for filing a request or statement of compliance must be computed under the rules in subpart D of part 4000 of this chapter.

(2) *Where to file.* A filing described under paragraph (d), (f), (h), or (i) of this section must be submitted as described in § 4000.4 of this chapter.

#### § 4262.17 Other provisions.

(a) Special financial assistance is not capped by the guarantee under section 4022A of ERISA.

(b) A plan that receives special financial assistance must continue to pay premiums due under section 4007 of ERISA for participants and beneficiaries in the plan.

(c) A plan that receives special financial assistance is deemed to be in critical status within the meaning of section 305(b)(2) of ERISA until the last day of the last plan year ending in 2051.

(d) A plan that receives special financial assistance and subsequently becomes insolvent under section 4245 of ERISA will be subject to the rules and guarantee for insolvent plans in effect when the plan becomes insolvent.

(e) A plan that receives special financial assistance is not eligible to apply for a suspension of benefits under section 305(e)(9) of ERISA.

(f) A plan that receives special financial assistance and meets the eligibility requirements for partition of the plan under section 4233(b) of ERISA may apply for partition.

(g) If any provision in this part is held to be invalid or unenforceable by its

terms, or as applied to any person or circumstance, or stayed pending further agency action, the provision will be construed so as to continue to give the maximum effect to the provision permitted by law, unless such holding

will be one of utter invalidity or unenforceability, in which event the provision will be severable from this part and will not affect the remainder thereof.

Issued in Washington, DC.

**Gordon Hartogensis,**  
*Director, Pension Benefit Guaranty Corporation.*

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